

State of Florida

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Public Service Commission

May 21, 1996

Jim Martin  
P. O. Box 351541  
Palm Coast, FL 32135-1541

Re: Docket No. 951056-WS: Application for rate increase in Flagler County by Palm Coast Utility Corporation.

Mr. Martin:

Thank you for your letter of May 12, 1996 requesting forms by which you can file as an intervenor in the above-referenced docket. We do not have forms per se for filing as an intervenor. Petitions for intervention must conform with Rule 25-22.039, Florida Administrative Code. Form and content of the petition are dictated by and must conform with Rule 25-22.036(7)(a), Florida Administrative Code. I have enclosed a copy of both rules for your convenience.

If you have any further questions, you can reach me at (904) 413-6230.

Sincerely,

Scott K. Edmonds  
Staff Counsel

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG \_\_\_\_\_
- LIN \_\_\_\_\_
- OFC \_\_\_\_\_
- RCH \_\_\_\_\_
- SEC   1
- WAS \_\_\_\_\_

SKE/mw  
Enclosure

cc: Division of Water & Wastewater (Willis, Crouch, Merchant,  
Moniz, Rendell, Starling, Washington  
Division of Records & Reporting ✓

DOCUMENT NUMBER-DATE  
05672 MAY 23 88

**25-22.039 Intervention.** Persons, other than the original parties to a pending proceeding, who have a substantial interest in the proceeding, and who desire to become parties may petition the presiding officer for leave to intervene. Petitions for leave to intervene must be filed at least five (5) days before the final hearing, must conform with Commission Rule 25-22.036(7)(a), and must include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceeding as a matter of constitutional or statutory right or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding. Intervenors take the case as they find it.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--Transferred from 25-2.34, Amended 12-21-81,  
Formerly 25-22.39.

**25-22.036 Initiation of Formal Proceedings.**

(1) Applicability. This section shall apply to all 120.57(1) and (2) hearings including a hearing requested by a substantially affected person subsequent to proposed agency action. This rule shall not apply to the extent that a proceeding is governed by rules or statutes that prescribe alternative procedures.

(2) Initial Pleading. The initial pleading shall be entitled as either an application, petition, complaint, order, or notice, as set forth in subsections (3), (4), (5), and (6). Where the Commission has issued notice of proposed agency action, the initial pleading shall be entitled "Petition on Proposed Agency Action."

(3) Application. An application is appropriate when a person seeks authority from the Commission to engage in an activity subject to Commission jurisdiction.

(4) Petition. A petition is appropriate when:

(a) A person subject to Commission jurisdiction seeks authority to change its rates or service, or seeks some other Commission action not otherwise specified in these rules; or

(b) A substantially affected person seeks Commission action to change the rates or service of a person subject to Commission jurisdiction, or seeks some other Commission action not otherwise specified in these rules.

(5) Complaints. A complaint is appropriate when a person complains of an act or omission by a person subject to Commission jurisdiction which affects the complainant's substantial interests and which is in violation of a statute enforced by the Commission, or of any Commission rule or order.

(6) Orders and Notices. Upon its own motion, the Commission may issue an order or notice initiating a proceeding. Such order or notice shall be served upon all persons named therein. The Commission may also transmit notice of its action to other persons requesting such notice, and may publish such notice in appropriate newspapers of general circulation and the Florida Administrative Weekly.

(7) Form and Content.

(a) Generally. Except for orders or notices issued by the Commission, each initial pleading should contain:

1. The name of the Commission and the Commission's docket number, if known;

2. The name and address of the applicant, complainant or petitioners, and an explanation of how his or her substantial interests will be or are affected by the Commission determination;

3. A statement of all known disputed issues of material fact. If there are none, the petition must so indicate;

4. A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief;

5. A demand for relief; and

6. Other information which the applicant, complainant or

petitioner contends is material.

(b) Application. An application shall be governed by the statute or rules applicable to applications for authority. In the absence of a specific form and content, the application shall conform to this rule.

(c) Complaint. Each complaint, in addition to the requirements of paragraph (a) above shall also contain:

1. The rule, order, or statute that has been violated;
2. The actions that constitute the violation;
3. The name and address of the person against whom the complaint is lodged;
4. The specific relief requested, including any penalty sought.

(d) When a petitioner seeks relief against another person, the petition shall include the name and address of the person against whom relief is sought in addition to the requirements of paragraph (a) of this subsection.

(e) Petitions for rate relief shall conform to all applicable rules and statutes as to form and content, in addition to the requirements of paragraph (a) of this subsection.

(f) Petition on Proposed Agency Action. When a petition is filed in response to proposed agency action the petition shall also contain a statement of when and how notice of the Commission's proposed agency action was received.

(8) Amendments. A petition, application or complaint may be amended prior to the filing of a responsive pleading or the designation of a presiding officer by filing and serving an amended initial pleading in the manner prescribed for filing and serving an original petition, application or complaint. The petitioner, complainant, or applicant may amend its initial pleading after the designation of the presiding officer only upon order of the presiding officer.

(9) Disposition.

(a) Where an application, petition, or complaint has been filed, and Commission action has not yet been proposed, the Commission may:

1. Deny the petition if it does not adequately state a substantial interest in the Commission determination or if it is untimely;
2. Issue notice of proposed agency action where a rule or statute does not mandate a hearing as a matter of course, and after the time for responsive pleadings has passed;
3. Set the matter for hearing before the Commission, or member thereof, or request that a hearing officer from the Division of Administrative Hearings be assigned to conduct the hearing. The assignment of a matter for hearing shall be pursuant to Rule 25-22.0355;
4. Dispose of the matter as provided in 120.57(2).

(b) Where a petition on proposed agency action has been filed, the Commission may:

1. Deny the petition if it does not adequately state a substantial interest in the Commission determination or if it is

(c) 1996 Compass Data Systems, Inc.

untimely.

2. Grant the petition and determine if a Section 120.57(1) hearing or a Section 120.57(2) hearing is required.

(c) The Commission shall promptly give written notice to all parties of the action taken on the petition, and shall state with particularity its reasons therefore.

(d) If the Commission elects to request that a Hearing Officer of the Division of Administrative Hearings be assigned to conduct the hearing, the Commission shall forward the initial pleading, and all materials filed with the Commission, to the Division of Administrative Hearings, and shall notify all parties of its action.

(10) Service of Initial Pleadings. Where a petition seeks relief against a person, or a complaint is filed, a copy of the petition or complaint shall be served on all persons named therein. Where a petition on proposed agency action is filed, a copy shall be served on all parties of record.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--New 12-21-81, Formerly 25-22.36.