

State of Florida

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



DIVISION OF APPEALS  
DAVID E. SMITH  
DIRECTOR  
(904) 413-6245

**Public Service Commission**

June 14, 1996

Mr. Carroll Webb  
Joint Administrative Procedures  
Committee  
120 Holland Building  
Tallahassee, Florida 32399

Re: Docket No. 960515-OT - Proposed Repeal of Rules 25-22.009, 25-22.010, 25-22.011, 25-22.040, 25-22.102, and 25-22.106, F.A.C., and Amendment of Rules 25-22.005(2)(e), 25-22.042(2), and 25-22.060(3)(b), F.A.C., To Delete Unnecessary or Obsolete Provisions

Dear Mr. Webb:

The Commission has approved the repeal of Rules 25-22.009, 25-22.010, 25-22.011, 25-22.040, 25-22.102, and 25-22.106, F.A.C., and amendment of Rules 25-22.005(2)(e), 25-22.042(2), and 25-22.060(3)(b), F.A.C., without changes.

The rule does not have an impact on small business.

Sincerely,

Christiana T. Moore  
Associate General Counsel

RP2522OT MRD  
Enclosure

cc: Division of Records & Reporting

DOCUMENT NUMBER-DATE  
06478 JUN 14 96  
FFSC-RECORDS/REPORTING

1     **25-22.005 Noticing Address Files.**

2     The Division of Records and Reporting ("the Division") shall  
3 maintain a main noticing address file for purposes of distributing  
4 Commission agenda, notices of workshops and rulemaking and, where  
5 appropriate, other notices and orders. The Division shall also  
6 maintain an individual noticing address file for each docket for  
7 purposes of distributing Commission notices and orders issued in  
8 that docket.

9     (1) Main File. The main noticing address file shall contain a  
10 single name, address and telephone number for each utility subject  
11 to Commission jurisdiction, the Public Counsel, the Clerk of each  
12 Board of County Commissioners and the chief executive officer of  
13 each municipality. This file shall also contain a name, address  
14 and telephone number for each person requesting in writing to be  
15 included in the file on one or more of the following lists:

16     (a) Persons requesting the Commission agenda (subject to payment  
17 of subscription fee);

18     (b) Persons requesting the weekly report of new dockets (subject  
19 to payment of subscription fee);

20     (c) Persons requesting the weekly summary of Commission orders  
21 (subject to payment of subscription fee);

22     (d) Persons requesting notices of Commission workshops;

23     (e) Persons requesting notices of proposed rulemaking; and

24     (f) Persons requesting copies of Commission notices of hearings  
25 and orders initiating industry-wide nonrule proceedings. Any

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1 person seeking to be on this list shall state with specificity how  
2 his substantial interests may be affected by Commission action in  
3 the categories of his interest. (For instance, a customer's rates  
4 or service may be affected, or a regulated utility's rates or  
5 service may be affected). Absent such a showing, a person will not  
6 be included on this list.

7 (2) The three lists described in paragraphs (1) (d-f) are further  
8 subdivided into the following categories:

- 9 (a) Electric
- 10 (b) Gas
- 11 (c) Telecommunications
- 12 (d) Water and Wastewater
- 13 (e) Railroad
- 14 ~~(f) Practice and Procedure~~

15 (3) Any person seeking to be included in the main noticing  
16 address file shall file a written request with the Division. The  
17 request shall state the name, address and telephone number the  
18 person seeks to have placed in the file, as well as the list(s) and  
19 category(ies) in which the person desires to be included. Persons  
20 entitled to practice before the Commission under Rule 25-22.008 may  
21 request inclusion in the file as representatives of their  
22 client(s). A request for inclusion in the rulemaking list does not  
23 constitute a request for a notice of change to a proposed rule  
24 under Section 120.54(11)(a).

25 (4) Purge of Main File. During the first quarter of each

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1 calendar year the Division shall transmit to all persons listed in  
2 the main file under the lists described in (1)(a-f) a written  
3 request to confirm the name, address and telephone number on file  
4 and the types of notices to be received. Any person who fails to  
5 confirm the foregoing in writing within 30 days after the date of  
6 the Division's request shall be stricken from the main noticing  
7 address file.

8 (5) Addresses of Regulated Companies. Each regulated company,  
9 as defined in Section 350.113, F.S., shall, in writing and within  
10 30 days of the effective date of this rule, provide the Division  
11 with a single official mailing address to be placed in the main  
12 noticing address file. Except in a docket where a company  
13 representative has previously provided an alternative address, the  
14 Commission is obliged only to transmit its orders, notices and  
15 other documents (such as regulatory assessment fee notices and  
16 annual report forms) to the official address. The Commission may,  
17 solely as a courtesy, transmit documents to additional addresses.  
18 Initial pleadings served by parties shall be transmitted to the  
19 official address on file. When a regulated company has filed a  
20 document in a docket and such document shows the name and address  
21 of counsel or other official representative and that name and  
22 address is different from the official mailing address it shall be  
23 recorded in the docket mailing address file in lieu of the official  
24 address. All documents thereafter served on the regulated company  
25 shall be transmitted to that address.

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1 (6) Docket File. Individual docket mailing address files shall  
2 be maintained as part of each docket file and contain the name,  
3 address and phone number of each party of record, or its  
4 representative, and each person requesting copies of notices and  
5 orders issued in that docket and qualifying under this subsection.

6 (a) Any person, other than a party of record, seeking to be on  
7 an individual docket noticing address file shall file a written  
8 request with the Division. Such request shall state the name,  
9 address and telephone number the person seeks to have placed in the  
10 file and, except for rulemaking dockets, shall state with  
11 specificity how his substantial interests may be affected by  
12 Commission action in that docket. (For instance, the docket may  
13 affect a customer's rates or service, or may have a potential  
14 impact on other utilities in similar circumstances). Absent such  
15 a showing, a person will not be included in the docket noticing  
16 address file. Persons entitled to practice before the Commission  
17 under Rule 25-22.008 may request inclusion in the file as  
18 representatives of their client(s).

19 (7) Change of Name, Address, Telephone. Each person included in  
20 the main noticing address file or in any docket noticing address  
21 file shall, in writing, notify the Division (and any parties of  
22 record in a docketed matter) of any change in name, address or  
23 telephone number. Any notice, order or other document served on  
24 the name and address on file prior to the date of receipt of such  
25 written notification shall be considered properly served.

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1 (8) The Division Director may grant requests to be placed in the  
2 main file under (1)(f) or requests to be placed in a docket  
3 noticing address file. The Chairman will rule on all such requests  
4 that the Division Director recommends be denied.

5 **Specific Authority:** 120.53, F.S.

6 **Law Implemented:** 120.53, F.S.

7 **History:** New 8/20/84, formerly 25-22.05, Amended .

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1 Rule 25-22.009 Size of Paper Filed With Commission.

2 ~~(1) Beginning on January 1, 1990, all petitions, pleadings, and~~  
3 ~~motions filed with the Commission and all orders, opinions, and~~  
4 ~~other official documents issued by the Commission shall be on paper~~  
5 ~~measuring 8 1/2 by 11 inches in size. However, the Commission~~  
6 ~~shall use legal size paper when necessary to comply with the filing~~  
7 ~~requirements of any court or other administrative body.~~

8 ~~(2) Correspondence and other documents filed with or issued by~~  
9 ~~the Commission should also be on 8 1/2 by 11 inch paper where~~  
10 ~~possible. Maps, data spreadsheets, and similar documents may be on~~  
11 ~~larger paper.~~

12 Specific Authority: 120.53, F.S.

13 Law Implemented: 120.53, F.S.

14 History: New 2/12/90, Repealed.

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1        25-22.010 Commencement of Rulemaking Proceedings.

2 ~~Proceedings held for the adoption, amendment or repeal of a~~  
3 ~~Commission rule shall be conducted according to the provisions of~~  
4 ~~Chapter 120, F.S., and these rules. Rulemaking proceedings shall~~  
5 ~~commence upon the Commission's own initiative, or on the petition~~  
6 ~~of a person regulated by the Commission, or on the petition of a~~  
7 ~~person having a substantial interest in a Commission rule. A~~  
8 ~~proceeding shall be deemed to have been initiated upon publication~~  
9 ~~of notice by the Commission in the Florida Administrative Weekly.~~

10 Specific Authority: 120.53, F.S.

11 Law Implemented: 120.53, F.S.

12 History: New 12/21/81, formerly 25-22.10, Repealed .

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1 25-22.011 Notice of Rulemaking; Proceeding and the Proposed  
2 Rules. ~~Except as provided in the Commission's rules on the~~  
3 ~~adoption of emergency rules, notice of its intention to adopt,~~  
4 ~~amend, or repeal a rule shall be given by the Commission as~~  
5 ~~provided in Section 120.54(1), F.S.~~

6 Specific Authority: 120.53, F.S.

7 Law Implemented: 120.53, F.S.

8 History: New 12/21/81, formerly 25-22.11, Repealed.  
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1       25-22.0376    Reconsideration of Non-Final Prehearing Officer  
2 Orders.

3       (1) Any party who is adversely affected by a non-final order of  
4 ~~a prehearing officer~~ may seek reconsideration by the Commission  
5 panel assigned to the proceeding by filing a motion in support  
6 thereof within 10 days after issuance of the order. ~~For the~~  
7 ~~purposes of this rule, orders of the prehearing officer shall not~~  
8 ~~be considered non final orders subject to Rule 25-22.060(3)(b),~~  
9 ~~Florida Administrative Code.~~ The Commission shall not entertain a  
10 motion for reconsideration of an order disposing of a motion for  
11 reconsideration.

12       (2) A party may file a response to a motion for reconsideration  
13 within 7 days after service of the motion for reconsideration.

14       (3) Failure to timely file a motion for reconsideration or a  
15 response shall constitute a waiver of the right to do so.

16       (4) Any motion or response filed pursuant to this rule shall  
17 contain a concise statement of the grounds therefor and the  
18 signature of counsel or other person filing the motion.

19       (5) Oral argument on any motion filed pursuant to this rule may  
20 be granted at the discretion of the Commission. A party who fails  
21 to file a written response to a point on reconsideration shall be  
22 precluded from responding to that point during oral argument.

23 **Specific Authority:** 120.53, F.S.

24 **Law Implemented:** 120.53, F.S.

25 **History:** New 9/3/95, Amended.

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1     25-22.040 Notice of Hearings. ~~The presiding officer shall set~~  
2 ~~the time and place for all hearings and shall issue notice thereof~~  
3 ~~on all parties of record. No less than fourteen (14) days notice~~  
4 ~~shall be given for the final hearing on the merits of the petition~~  
5 ~~complaint, application or other initial pleading unless otherwise~~  
6 ~~agreed by the parties. The notice of hearing shall contain the~~  
7 ~~statements set out in Section 120.57(1)(b)2, F.S. No less than~~  
8 ~~seven (7) days notice shall be given for all other hearings.~~

9     Specific Authority: 120.53, F.S.

10    Law Implemented: 120.53, F.S.

11    History: New 12/21/81, formerly 25-22.40, Repealed.

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1 25-22.042 Dismissal.

2 ~~(1)~~ The failure or refusal of a party to comply with any lawful  
3 order may be cause for dismissing the party from the proceeding.

4 ~~(2) The presiding officer shall serve upon all parties written~~  
5 ~~notice of any recommended order entered pursuant to Subsection (1).~~  
6 ~~Not later than fourteen (14) days after service of notice, the~~  
7 ~~party against whom such an order is entered may file a motion~~  
8 ~~requesting that the recommendation for or dismissal be set aside~~  
9 ~~and stating the ground relied upon.~~ If a dismissal is entered  
10 against the party who has the burden of proof, the proceeding will  
11 be dismissed. If a dismissal is entered against a party who does  
12 not have the burden of proof, the party shall not be allowed to  
13 participate in the proceeding as a party.

14 Specific Authority: 120.53, F.S.

15 Law Implemented: 120.53, F.S.

16 History: New 12/21/81, formerly 25-22.42, Amended .

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1     **25-22.060 Motion for Reconsideration**

2     (1) Scope and general provisions.

3     (a) Any party to a proceeding who is adversely affected by an  
4 order of the Commission may file a motion for reconsideration of  
5 that order. The Commission will not entertain any motion for  
6 reconsideration of any order which disposes of a motion for  
7 reconsideration. The Commission will not entertain a motion for  
8 reconsideration of a Notice of Proposed Agency Action issued  
9 pursuant to Rule 25-22.029, regardless of the form of the Notice  
10 and regardless of whether or not the proposed action has become  
11 effective under Rule 25-22.029(6).

12     (b) A party may file a response to a motion for reconsideration  
13 and may file a cross motion for reconsideration. A party may file  
14 a response to a cross motion for reconsideration.

15     (c) A final order shall not be deemed rendered for the purpose  
16 of judicial review until the Commission disposes of any motion and  
17 cross motion for reconsideration of that order, but this provision  
18 does not serve automatically to stay the effectiveness of any such  
19 final order. The time period for filing a motion for  
20 reconsideration is not tolled by the filing of any other motion for  
21 reconsideration.

22     (d) Failure to file a timely motion for reconsideration, cross  
23 motion for reconsideration, or response, shall constitute waiver of  
24 the right to do so.

25     (e) A motion for reconsideration of an order adopting, repealing

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1 or amending a rule shall be treated by the Commission as a petition  
2 to adopt, repeal or amend a rule under §120.54(5), F.S., and Rule  
3 25-22.012.

4 (f) Oral argument on any pleading filed under this rule shall be  
5 granted solely at the discretion of the Commission. A party who  
6 fails to file a written response to a point on reconsideration is  
7 precluded from responding to that point during the oral argument.

8 (2) Contents. Any motion or response filed pursuant to this  
9 rule shall contain a concise statement of the grounds for  
10 reconsideration, and the signature of counsel, if any.

11 (3) Time.

12 ~~(a)~~ A motion for reconsideration of a final order shall be filed  
13 within ~~fifteen (15)~~ days after issuance of the order.

14 ~~(b) A motion for reconsideration of a nonfinal order may be~~  
15 ~~filed at any time prior to the issuance of a final order. However,~~  
16 ~~except for good cause shown, unless the motion is filed within~~  
17 ~~fifteen (15) days after the issuance of the nonfinal order, the~~  
18 ~~Commission may rule upon that motion in its final order.~~

19 ~~(c)~~ A response to a motion for reconsideration or a cross motion  
20 for reconsideration shall be served within ~~seven (7)~~ days of  
21 service of the motion for reconsideration to which the response or  
22 cross motion is directed. A response to a cross motion for  
23 reconsideration shall be served within ~~seven (7)~~ days of service of  
24 the cross motion.

25 **Specific Authority: 120.53, F.S.**

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1 Law Implemented: 120.53, F.S.

2 History: New 12/21/81, Amended 10/4/84, formerly 25-22.60, Amended

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1 25-22.102 Public Inspection and Duplication. Comm. ~~seion~~  
2 ~~orders shall be made available from the agency for public~~  
3 ~~inspection and copying.~~

4 Specific Authority: 120.533, F.S.

5 Law Implemented: 120.53(2)(a)(1) - (5), 350.06(7), F.S.

6 History: New 9/24/92, Amended 12/27/94, Repealed .

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1 25-22.106 Maintenance of Records. ~~Orders shall be maintained~~  
2 ~~by the Commission pursuant to the retention schedules approved by~~  
3 ~~the Department of State, Division of Library and Information~~  
4 ~~Services.~~

5 Specific Authority: 120.53(2)(f) F.S.

6 Law Implemented: 119.041(2) F.S.

7 History: New 9/24/92, Amended 12/27/94, Repealed.  
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