



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: 2/4/99

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF APPEALS (MOORE) *CTM DS*
DIVISION OF LEGAL SERVICES (JAEGER DAVIS) *msd*
DIVISION OF RECORDS AND REPORTING (FLYNN) *kg*
DIVISION OF RESEARCH AND REGULATORY REVIEW (HEWITT) *CHP PA*

RE: DOCKET NO. 980500-PU - PROPOSED REPEAL OF RULES 25-21.001, F.A.C., MEMBERSHIP; 25-21.002, MEMBERS; 25-21.003, CHAIRMAN; 25-21.004, DISQUALIFICATION; 25-21.005, QUORUM; 25-21.006, MINUTES; 25-21.007, ORDERS; 25-21.020, ORGANIZATION; 25-21.021, OFFICE OF THE GENERAL COUNSEL; 25-21.022, OFFICE OF THE EXECUTIVE DIRECTOR; 25-21.023, DIVISION OF ADMINISTRATION; 25-21.024, DIVISION OF AUDITING AND FINANCIAL ANALYSIS; 25-21.026, DIVISION OF COMMUNICATIONS; 25-21.027, DIVISION OF CONSUMER AFFAIRS; 25-21.028, DIVISION OF ELECTRIC AND GAS; 25-21.0301, DIVISION OF RECORDS AND REPORTING; 25-21.031, DIVISION OF RESEARCH AND REGULATORY REVIEW; 25-21.032, DIVISION OF WATER & WASTEWATER; 25-21.033, DESIGNATION OF AGENCY CLERK; 25-21.040, PRINCIPAL OFFICE; 25-21.041, CONFERENCES; 25-21.042, AGENDA CONFERENCES; 25-21.043, INTERNAL AFFAIRS MEETINGS; 25-22.003, EMERGENCY MEETING; 25-22.004, COMMISSION FORMS; 25-22.005, NOTICING ADDRESS FILES; 25-22.008, PRACTITIONERS; 25-22.012, PETITIONS TO INITIATE RULEMAKING PROCEEDINGS; 25-22.013, COMMISSION ACTION ON PETITIONS TO INITIATE RULEMAKING PROCEEDINGS; 25-22.014, RULEMAKING MATERIALS; 25-22.015, RULEMAKING PROCEEDING--NO HEARING; 25-22.016, RULEMAKING PROCEEDING--HEARING; 25-22.018, EMERGENCY RULE ADOPTION; 25-22.020, GENERAL; 25-22.021, PURPOSE AND USE OF DECLARATORY STATEMENT; 25-22.022, DISPOSITION; 25-22.025, SCOPE AND TITLE OF RULES; 25-22.026, PARTIES; 25-22.034, DISCOVERY; 25-22.035, MISCELLANEOUS MATTERS; 25-22.0355, ASSIGNMENT OF FORMAL PROCEEDINGS; 25-22.037, ANSWERS AND MOTIONS; 25-22.0375, PLEADINGS; 25-22.038, PREHEARING OFFICER, PREHEARING STATEMENT, PREHEARING CONFERENCES, AND PREHEARING ORDER; 25-22.041, CONTINUANCES; 25-22.042, DISMISSAL; 25-22.046, WITNESSES AND WITNESS FEES; 25-22.048, EVIDENCE; 25-22.049, RECORDATION; 25-22.056, POST-HEARING FILINGS; 25-22.059, FINAL ORDERS; PROPOSED AMENDMENT OF RULES 25-22.001, NOTICE OF MEETING OR WORKSHOP; 25-22.002, AGENDA OF MEETINGS; 25-22.017,

DOCUMENT NUMBER-DATE

01437 FEB-4 9

FPSC-RECORDS/REPORTING

DOCKET NO. 980500-PU
DATE: 2/4/99

RULEMAKING PROCEEDING--ADOPTION; 25-22.028, FILING, SERVICE OF DOCUMENTS, AND COMPUTATION OF TIME; 25-22.029, POINT OF ENTRY INTO PROPOSED AGENCY ACTION PROCEEDINGS; 25-22.036, INITIATION OF FORMAL PROCEEDINGS; 25-22.0405, NOTICES OF HEARINGS; 25-22.0406, NOTICE AND PUBLIC INFORMATION ON GENERAL RATE INCREASE REQUESTS BY ELECTRIC, GAS AND TELEPHONE COMPANIES; 25-22.0407, NOTICE OF AND PUBLIC INFORMATION FOR GENERAL RATE INCREASE REQUESTS BY WATER AND WASTEWATER UTILITIES; 25-22.045, SUBPOENAS; AND PROPOSED NEW RULE 25-40.001, EXCEPTIONS TO UNIFORM RULES OF PROCEDURE.

AGENDA: 2/16/99 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY BE DEFERRED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\APP\WP\980500.RCM

CASE BACKGROUND

In 1996, the Legislature amended Chapter 120, Florida Statutes, the "Administrative Procedure Act", to require every state agency to follow uniform rules of procedure, unless the agency petitions for and receives approval for exceptions to those rules. The Public Service Commission ("PSC") filed a petition with the Administration Commission requesting exceptions to allow it to keep certain of its procedural rules that are codified in Chapter 25-22, Florida Administrative Code. On June 24, 1998, the Administration Commission issued its final order granting some exceptions and denying others. Some exceptions were denied because the Administration Commission decided that the statutes and uniform rules adequately address the subject and an exception is not justified. Others were denied because the PSC rules are outside the scope of the uniform rules and thus, an exception is unnecessary for the Commission to keep its rule.

Chapter 120, Florida Statutes, was also amended to delete the requirement that each agency adopt rules describing its organization and to require, instead, a uniform rule governing the method by which each agency shall provide a description of its organization and general course of its operations. Uniform Rule 28-101.001 now requires each agency to maintain a Statement of Agency Organization and Operation.

DISCUSSION OF THE ISSUES

ISSUE 1: Should the Commission amend and repeal various rules in Rule Chapters 25-21 and 25-22, F.A.C., and adopt Rule 25-40.001 to conform its procedural and organizational rules to the exceptions granted to the Uniform Rules of Procedure?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Most of the content of the organizational and operational rules in Chapter 25-21, F.A.C., have been included in the PSC's Statement of Agency Organization and Operation, which was approved at the December 15, 1998, Internal Affairs meeting. Thus, Rules 25-21.001 through 25-21.043 may be repealed. (Attachment A, pages 10 - 26) The only rule in Chapter 25-21 not recommended for repeal is Rule 25-21.050, Acceptance of Gifts, which is not affected by the changes to Chapter 120, F.S.

The changes to the Chapter 25-22 procedural rules that are recommended in this docket repeal rules for which the PSC either did not request an exception or was denied an exception, and conform other rules to the particular exceptions that were granted by the Administration Commission. Each of these rules is listed below, along with a brief statement of the specific reason for

repeal or amendment. (Attachment A, pages 26 - 108) In addition, the rules in this chapter that are being retained without changes are listed below simply for information.

Finally, section 120.54(5)(a)3., Florida Statutes, requires each agency that has rules that are exceptions to the uniform rules to adopt a separate rule clearly delineating those exceptions. A new rule, 25-40.001, is recommended to satisfy this requirement. (Attachment A, pages 109-111)

PART I, GENERAL PROVISIONS

25-22.001, Notice of Meeting or Workshop.

(1)-(2) Repeal. Covered by uniform rules.
(3)-(4) Exception granted to Uniform Rule 28-102.001. Clarifies the meaning of "public meeting" and "workshop" for notice purposes and adds cross references to the pertinent uniform rule.

25-22.002, Agenda of Meetings.

(1), (2), and (4) Repeal. Information is either adequately covered by statute and uniform rules, or is included in Statement of Agency Organization and Operation.
(3) Amend to delete part that reiterates statute. Exception granted to Uniform Rule 28-102.002(2) for remainder.

25-22.0021 Agenda Conference Participation.

No change. Exception granted to Uniform Rule Chapter 28-102.

25-22.003, Emergency Meeting.

Repeal. Content is covered by statute and uniform rules.

25-22.004, Commission Form.

Repeal. All forms are required to be incorporated in the text of the pertinent rules and this rule, which merely lists the forms and is out-of-date, is unnecessary.

25-22.005, Noticing Address Files.

Repeal. Information now included in Statement of Agency Organization and Operation.

25-22.006, Confidential Information.

No change. Exception granted to Uniform Rule Chapter 28-106.

25-22.008, Practitioners.

Repeal. An exception to the uniform rule governing qualified representatives, Rule 28-106.106, was denied.

PART II, RULEMAKING PROCEEDINGS

25-22.012, Petitions to Initiate Rulemaking Proceedings.

Repeal. Content is covered by statute and uniform rules.

25-22.013, Commission Action on Petitions to Initiate Rulemaking Proceedings.

Repeal. Content is covered by statute and uniform rules.

25-22.014, Rulemaking Materials.

Repeal. Content is covered by statute and uniform rules.

25-22.015, Rulemaking Proceeding -- No Hearing.

Repeal. Content is covered by statute and uniform rules.

25-22.016, Rulemaking Proceeding -- Hearing.

Repeal. Content is covered by statute and uniform rules.

25-22.017, Rulemaking Proceeding -- Adoption.

(1)-(2) No change. Exception granted to uniform rules, Chapter 28-103.

(3) Repeal. Content is covered by statute and uniform rules.

25-22.018, Emergency Rule Adoption.

Repeal. Content is covered by statute and uniform rules.

PART III, DECLARATORY STATEMENTS

25-22.020, General.

Repeal. Content is covered by statute and uniform rules.

25-22.021, Purpose and Use of Declaratory Statement.

Repeal. Content is covered by statute and uniform rules.

25-22.022, Disposition.

Repeal. Most of content is covered by statute and uniform rules. An exception for (3), which provides that oral argument is inappropriate in declaratory statement proceedings, was denied for lack of justification.

PART IV, DECISIONS DETERMINING SUBSTANTIAL INTERESTS

SUBPART A, GENERAL PROVISIONS

25-22.025, Scope and Title of Rules.

Repeal. Duplicates Uniform Rule 28-106.101.

25-22.026, Parties.

Repeal. Subsections (1) and (2) duplicate Uniform Rule 28-106.109. Request for exception for subsections (3) and (4), regarding the role of Commission staff in proceedings, was withdrawn as not necessary and the information was added to the Agency Statement.

25-22.028, Filing, Service of Documents, and Computation of Time.

(1) Amend to eliminate provisions that are covered by uniform rules and statute. Exception granted to Rule 28-106.104, F.A.C., in order to keep the remainder.

(2)-(5) Repeal. Content of rule is adequately covered by uniform rules, Rules 28-106.103 and 28.106.110, F.A.C.
A new subsection (2), providing for the number of copies of pleadings that must be filed, is added to include the content of existing Rule 25-22.0375(3).

25-22.029, Point of Entry Into Proposed Agency Action Proceedings.

(1) Repeal. Request for exception was withdrawn as not necessary.
(2)-(4) Exception granted to Rules 28-106.111 and 28-106.208, F.A.C., for parts of these subsections. Amended to reflect particular exception; to provide that **if** the PSC finds that it is necessary, it will (rather than "may") require utilities to serve written notice of proposed agency action orders; to update cross-references; and to remove unnecessary statements about what the Commission "may" do (such as "the Commission may publish notice.")
(5)-(6) Repeal. Request for exception denied because duplicative of the uniform rules.

25-22.030, Injunctions.

No change. No exception required or requested.

25-22.032, Customer Complaints.

No change. No exception required or requested.

25-22.033, Communications Between Commission Employees and Parties.

No change. No exception required or requested.

25-22.034, Discovery.

Repeal. Content is covered by Rule 28-106.206, F.A.C.

25-22.035, Miscellaneous Matters.

Repeal. Request for exception for (1) and (3) was withdrawn as unnecessary.

25-22.0355, Assignment of Formal Proceedings.

Repeal. Content included in Statement of Agency Organization and Operation.

SUBPART B, PREHEARING PROCEDURES

25-22.036, Initiation of Formal Proceedings.

Sections (1), (2), (4), (7)(a), (d) and (e), (8) through (10): Repeal. Exception denied because content is adequately covered by the uniform rules or statute. Sections (3), (5), (6), (7)(b) and (c): Keep and renumber. Repeal (7)(c) as superfluous.

25-22.037, Answers and Motions.

Repeal. Exception denied.

25-22.0375, Pleadings.

(1)-(2) Repeal. Content is covered by uniform rules.

(3) Repeal and add substance to Rule 25-22.028(2). Exception granted to Rule 28-106.104.

25-22.0376, Reconsideration of Non-Final Orders.

No change. Exception granted to uniform rules, Rule Chapter 28-106.

25-22.038, Prehearing Officer; Prehearing Statement; Prehearing Conferences; and Prehearing Order.

Repeal. Exception denied as unnecessary because PSC can issue prehearing orders under uniform rules, Rules 28-106.209, 28-106.211, and 28-106.305.

25-22.039, Intervention.

No change. Exception granted to uniform rules, Rule 28-106.205.

25-22.0405, Notices of Public Utility Hearings.

(1) Repeal, unnecessary.

(2), (3) and (5) Repeal, included in Statement of Agency Organization and Operation.

(4) Exception granted to uniform rules, Chapter 28-106. Amend to require a utility to publish additional notices, but only **if** the PSC finds it is necessary in order to provide adequate notice.

25-22.0406, Notice and Public Information on General Rate Increase Requests by Electric, Gas and Telephone Companies.

(1)-(6) No change. No exception necessary.

(3)(b) Amend to explain when the PSC will require that MFRs be placed in additional locations.

(7)-(8) No change. Exception granted to uniform rules, Chapter 28-106.

25-22.0407, Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities.

(1)-(7) and (9) No change. No exception necessary.

(3) Amend to explain when the PSC will require that MFRs be placed in additional locations.

(8) and (10) No change. Exception granted to uniform rules, Chapter 28-106.

25-22.0408, Notice of Requests for New or Revised Service Availability Charges or Policies and Notice of Requests for Allowance for Funds Prudently Invested (AFPI) Charges.

Transferred to Chapter 25-30. Now numbered Rule 25-30.4345.

25-22.041, Continuances.

Repeal. Adequately covered by uniform rule.

25-22.042, Dismissal.

Repeal. Exception denied as unnecessary.

SUBPART C, CONDUCT OF FORMAL HEARINGS

25-22.045, Subpoenas.

(1) Amend to update terminology. Exception granted to Rule 28-106.212.

(2)-(5) Repeal. Exception denied as unnecessary.

25-22.046, Witnesses and Witness Fees.

Repeal. Request for exception withdrawn as unnecessary.

25-22.048, Evidence.

Repeal all. Sections (1) and (2) adequately covered by uniform rules and statute. Request for exception for (3) withdrawn as unnecessary, and (4), denied as unnecessary.

25-22.049, Recordation.

Repeal. Adequately covered by uniform rules.

SUBPART D, POST-HEARING PROCEDURES

25-22.056, Post-hearing Filings.

Repeal. Request for exception denied as duplicative of Rule 28-106.215, conflict as to waiver of positions if exceptions are not filed, or otherwise unnecessary.

25-22.058, Oral Argument.

No change. Exception granted to Uniform Rule Chapter 28-106.

25-22.059, Final Orders.

Repeal. Adequately covered by statute and uniform rule.

25-22.060, Motion for Reconsideration.

No change. Exception granted to Uniform Rule Chapter 28-106.

25-22.061, Stay Pending Judicial Review.

No change. No exception required or requested.

25-40.001, Applicability of Uniform Rules of Procedure

New. Required by section 120.54(5)(a)3., F.S.

Statement of Estimated Regulatory Cost:

Because there should be no significant additional costs or negative impacts on utilities, small businesses, small cities, or small counties, a Statement of Estimated Regulatory Costs (SERC) was not prepared. (Attachment B)

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ISSUE 2: Should the rules be filed for adoption with the Secretary of State if no comments are filed?

RECOMMENDATION: Yes. If no comments are filed, the rule may be filed for adoption. The docket may then be closed.

STAFF ANALYSIS: The Commission is not required to offer the opportunity for a hearing on rules that relate exclusively to organization, procedure or practice. Section 120.54(3)(c), Florida Statutes; Rule 28-103.004(3), Florida Administrative Code. If comments are filed, they must be considered at a subsequent agenda conference, but if none are received, there is no need to return to agenda and the rule will be filed for adoption without change.

Attachments:

Rules
SERC Memorandum

CTM/

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1
2 PART I MEMBERSHIP

3 25-21.001 Membership.

4 ~~The Florida Public Service Commission is a regulatory agency~~
5 ~~created by the State Legislature under its constitutional power to~~
6 ~~pass laws for the correction of abuses and to prevent unjust~~
7 ~~discrimination and excessive charges by persons and corporations~~
8 ~~engaged in performing services of a public nature. The Commission~~
9 ~~performs such functions as may be delegated to it from time to time~~
10 ~~by law.~~

11 Specific Authority: 120.53 F.S.

12 Law Implemented: 120.53 F.S.

13 History--Formerly 25-1.01, 11-30-81, Formerly 25-21.01, Repealed

14 _____.

15 25-21.002 Members.

16 ~~The Commission consists of five commissioners appointed by the~~
17 ~~Governor from nominees selected by the Florida Public Service~~
18 ~~Commission Nominating Council for terms of four years as provided~~
19 ~~in Chapter 350, F.S.~~

20 Specific Authority: 120.53 F.S.

21 Law Implemented: 120.53 F.S.

22 History--Formerly 25-1.02, 11-30-81, Formerly 25-21.02, Repealed

23 _____.

24
25
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~~struck-through~~ type are deletions from existing law.

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2 **25-21.003 Chairman.**

3 ~~The chairman is the chief administrative officer of the~~
4 ~~Commission, presiding at all hearings and conferences when present,~~
5 ~~sets Commission hearings, and performs those duties prescribed by~~
6 ~~law. In the absence of an immediate past chairman, the senior~~
7 ~~member of the Commission panel presides. The chairman is elected by~~
8 ~~majority vote of the Commission for a term of two years beginning~~
9 ~~on the first Tuesday after the first Monday in January of the odd~~
10 ~~years. A member may not serve two consecutive terms as chairman.~~

11 Specific Authority: 120.53 F.S.

12 Law Implemented: 120.53 F.S.

13 History--Formerly 25-1.03, Amended 11-30-81, Formerly 25-21.03,

14 Repealed _____.

15 **25-21.004 Disqualification.**

16 ~~(1) A commissioner may be disqualified from hearing or~~
17 ~~deciding any matter where it can be shown that the commissioner has~~
18 ~~a bias or a prejudice for or against any party to the proceeding or~~
19 ~~a financial interest in its outcome.~~

20 ~~— (2) A commissioner subject to disqualification under~~
21 ~~subsection (1) of this rule may disclose on the record the basis~~
22 ~~for disqualification instead of withdrawing from the proceeding.~~
23 ~~if, based on such disclosure, the parties, independently of the~~
24 ~~commissioner's participation, all agree in writing that the~~
25 ~~commissioner's basis for disqualification is immaterial or~~

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2 ~~insubstantial, the commissioner may participate in the proceeding.~~
3 ~~The agreement, signed by all parties or their lawyers, shall be~~
4 ~~incorporated into the record of the proceedings.~~

5 ~~— (3) A petition for disqualification of a commissioner shall~~
6 ~~state the grounds for disqualification and shall allege facts~~
7 ~~supportive of those grounds. The petition shall be filed with the~~
8 ~~Division of Records and Reporting, and where the commissioner~~
9 ~~declines to withdraw from the proceeding, a majority vote of a~~
10 ~~quorum of the full commission, absent the affected commissioner,~~
11 ~~shall decide the issue of disqualification.~~

12 ~~— (4) Commission staff members continue to perform their usual~~
13 ~~functions in all matters even though one or more of the~~
14 ~~commissioners may be disqualified.~~

15 Specific Authority: 120.53 F.S.

16 Law Implemented: 120.51 F.S.

17 History--Formerly 25-1.04, Amended 11-30-81, Formerly 25-21.04,

18 Repealed _____.

19 25-21.005 Quorum.

20 ~~A majority of any Commission panel constitutes a quorum and~~
21 ~~the Commission cannot take formal action in the absence of a~~
22 ~~quorum. A majority vote of the quorum is essential to Commission~~
23 ~~action, and where only two commissioners are assigned to a~~
24 ~~proceeding and they do not agree on a final decision, the chairman~~
25 ~~of the Commission shall cast the deciding vote. Where the chairman~~

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2 ~~is one of a two member panel and the panel does not agree on a~~
3 ~~final decision, the matter shall be referred to the full Commission~~
4 ~~for disposition. In such an event, the full Commission shall~~
5 ~~review the record as provided in Section 120.57(1)(b)9:~~

6 Specific Authority: 120.53 F.S.

7 Law Implemented: 120.53 F.S.

8 History--Formerly 25-1.05, Amended 11-30-81, Formerly 25-21.05,
9 Amended 2-12-86, Repealed _____.

10 25-21.006 Minutes.

11 ~~All official actions of the Commission are recorded in~~
12 ~~permanent minute books which are maintained by the Division of~~
13 ~~Records and Reporting and which are open to public inspection~~
14 ~~during regular office hours at the principal office of the~~
15 ~~Commission in Tallahassee, Florida.~~

16 Specific Authority: 120.53 F.S.

17 Law Implemented: 120.53 F.S.

18 History--Formerly 25-1.06, Amended 11-30-81, Formerly 25-21.06,
19 Repealed _____.

20 25-21.007 Orders.

21 ~~All official and formal orders of the Commission are recorded~~
22 ~~in permanent order books which are maintained by the Division of~~
23 ~~Records and Reporting and which are open to public inspection~~
24 ~~during regular office hours at the principal office of the~~
25 ~~Commission in Tallahassee, Florida.~~

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2 Specific Authority: 120.53 F.S.

3 Law Implemented: 120.53 F.S.

4 History--Formerly 25-1.07, Amended 11-30-81, Formerly 25-21.07,
5 Repealed _____.

6 PART II DIVISIONS

7 25-21.020 Organization.

8 ~~The Commission carries on its work through two primary~~
9 ~~functional units: The Office of the General Counsel and the Office~~
10 ~~of the Executive Director.~~

11 ~~— (1) The Office of the General Counsel has jurisdiction over~~
12 ~~the Division of Appeals and the Division of Legal Services.~~

13 ~~— (2) The Office of the Executive Director has jurisdiction~~
14 ~~over all divisions and offices, except the Office of the General~~
15 ~~Counsel, and directs activities through two deputy executive~~
16 ~~directors.~~

17 ~~— (a) The Office of the Deputy Executive Director/Technical has~~
18 ~~jurisdiction over the following divisions:~~

19 ~~— 1. Communications~~

20 ~~— 2. Electric and Gas~~

21 ~~— 3. Water and Wastewater~~

22 ~~— 4. Research and Regulatory Review~~

23 ~~— 5. Auditing and Financial Analysis~~

24 ~~— (b) The Office of the Deputy Executive Director/Administration~~
25 ~~has jurisdiction over the following divisions:~~

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- 1
2 ~~1. Administration~~
3 ~~2. Records and Reporting~~
4 ~~3. Consumer Affairs~~

5 Specific Authority: 120.53 F.S.

6 Law Implemented: 120.53 F.S.

7 History--Formerly 25-1.20, Amended 11-30-81, Formerly 25-21.20,
8 Amended 2-12-86, 11-19-86, 8-11-92, Repealed _____,
9 25-21.021 Office of the General Counsel.

10 ~~The Office of the General Counsel provides legal counsel to~~
11 ~~the Commission on all matters under the Commission's jurisdiction.~~
12 ~~In doing so, the General Counsel's office employs two units: a~~
13 ~~Division of Appeals and a Division of Legal Services.~~

14 ~~(1) The Division of Appeals of the General Counsel's office,~~
15 ~~in coordination with the Office of the Executive Director, serves~~
16 ~~as the Commission's liaison with federal and state agencies as well~~
17 ~~as the State Legislature and political subdivisions of the state.~~
18 ~~The division has primary responsibility for rulemaking and appeals~~
19 ~~of Commission orders. The division's staff attends Commission and~~
20 ~~staff conferences as well as Commission hearings to provide legal~~
21 ~~advice to the Commission, conducts public hearings at the~~
22 ~~Commission's request, and maintains surveillance over rate~~
23 ~~philosophy. In addition, the division's staff rules on requests~~
24 ~~for admission of Class B Practitioners to practice before the~~
25 ~~Commission, provides guidance in procurement of services and~~

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2 ~~commodities, drafts procurement contracts, and provides counsel to~~
3 ~~the Commission on personnel matters.~~

4 ~~— (2) The Division of Legal Services supervises the procedural~~
5 ~~and legal aspects of rate cases and other formal proceedings before~~
6 ~~the Commission, the Division of Administrative Hearings and, on~~
7 ~~behalf of the Commission, in civil court proceedings. This~~
8 ~~division also represents the staff before the Commission and issues~~
9 ~~reports and recommendations to the Commission as requested.~~

10 Specific Authority: 120.53 F.S.

11 Law Implemented: 120.53 F.S.

12 History--New 2-19-82, Formerly 25-21.21, Amended 11-19-86, 8-11-92,

13 Repealed _____.

14 25-21.022 Office of the Executive Director.

15 ~~The Executive Director attends Commission conferences, assists~~
16 ~~the Commission in the formulation of policy, develops agenda for~~
17 ~~internal affairs, and performs other functions as the Commission~~
18 ~~may assign from time to time, including interagency and legislative~~
19 ~~liaison in coordination with the Office of the General Counsel.~~
20 ~~Also, the Office of the Executive Director has jurisdiction over~~
21 ~~all divisions, and offices, except the Office of the General~~
22 ~~Counsel, and directs activities through two deputy executive~~
23 ~~directors.~~

24 Specific Authority: 120.53 F.S.

25 Law Implemented: 120.53 F.S.

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2 History--Formerly 25-1.21, Amended 11-30-81, Formerly 25-21.22,
3 Amended 11-19-86, Repealed _____.
4 25-21.023 Division of Administration.

5 ~~The Division of Administration provides administrative and~~
6 ~~support services for the Commission and provides budget planning~~
7 ~~assistance to the Commission's executive offices and operating~~
8 ~~divisions. The division maintains a system for collecting employee~~
9 ~~workload statistics; coordinates and prepares the Commission's~~
10 ~~legislative budget requests; and monitors the operating budget,~~
11 ~~preparing amendments as necessary. The division functions as the~~
12 ~~Commission's liaison to all state agencies regarding budgets and~~
13 ~~administrative matters of mutual interest, in coordination with the~~
14 ~~General Counsel's office and the Office of the Executive Director.~~
15 ~~The division maintains centralized accounting and financial records~~
16 ~~for the entire Commission; receives and deposits incoming revenues~~
17 ~~(including fees, fines, taxes, and other revenue); processes~~
18 ~~payrolls and all bills for payment; reviews and processes~~
19 ~~employees' travel vouchers; reviews consultant contracts; and~~
20 ~~maintains property inventory and control. The division administers~~
21 ~~the State personnel rules and regulations for the Commission and~~
22 ~~assists in coordinating training for employees and providing~~
23 ~~assistance to the divisions and offices regarding personnel matters~~
24 ~~such as recruitment of new employees, position classifications,~~
25 ~~performance evaluations, and insurance programs. The division~~

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1
2 ~~functions as the purchasing agent for the Commission; provides mail~~
3 ~~and messenger pickup and delivery services; provides copying~~
4 ~~services; manages central office supply inventory; procures~~
5 ~~services for maintenance of equipment; provides centralized~~
6 ~~facsimile services; provides fleet management; and administers the~~
7 ~~Commission's lease management program for office space and~~
8 ~~equipment. The Division is also responsible for collecting~~
9 ~~information from other divisions; preparing needs assessments and~~
10 ~~maintaining plans for the procurement and implementation of all~~
11 ~~information processing technologies within the Commission;~~
12 ~~developing and implementing information systems; and providing a~~
13 ~~continuing program of support and maintenance.~~

14 Specific Authority: 120.53 F.S.

15 Law Implemented: 120.53 F.S.

16 History--Formerly 25-1.23, Amended 11-30-81, Formerly 25-21.23,
17 Amended 11-19-86, 8-11-92, Repealed _____.

18 25-21.024 Division of Auditing and Financial Analysis.

19 ~~The Division of Auditing and Financial Analysis is involved in~~
20 ~~all areas of regulation which require accounting, auditing,~~
21 ~~financial and engineering expertise. This includes items such as~~
22 ~~advising the Commission on security applications, conducting~~
23 ~~financial audits, reviewing capital recovery applications,~~
24 ~~conducting special studies of a financial nature, and determining~~
25 ~~revenue requirements in rate cases. The Division also participates~~

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~~struck-through~~ type are deletions from existing law.

1
2 ~~in proceedings concerning matters of accounting, cost of capital,~~
3 ~~income taxes, audit results, and capital recovery. The Division~~
4 ~~receives and maintains copies of annual financial reports and rate~~
5 ~~of return reports of all local exchange telecommunications,~~
6 ~~investor owned electric, and gas utilities.~~

7 Specific Authority: 120.53 F.S.

8 Law Implemented: 120.53 F.S.

9 History--New 11-30-81, Formerly 25-21.24, Amended 2-12-86,
10 11-19-86, 8-11-92, Repealed _____.

11 25-21.026 Division of Communications.

12 ~~The Division of Communications serves as telecommunications~~
13 ~~advisor to the Commission; prepares testimony, exhibits and~~
14 ~~cross examination questions and participates in informal and formal~~
15 ~~proceedings involving telecommunications standards of service and~~
16 ~~construction practices; provides instruction and guidance~~
17 ~~concerning technological changes and their impact; conducts~~
18 ~~periodic on-site safety inspections of telecommunications~~
19 ~~facilities; establishes procedures for the review of tariff~~
20 ~~changes, additions, rate changes and determines revenues to be~~
21 ~~derived; evaluates telecommunications company quality of service;~~
22 ~~and conducts compliance audits of regulated telephone companies to~~
23 ~~insure compliance with tariff and Commission rules and Florida~~
24 ~~Statutes.~~

25 Specific Authority: 120.53 F.S.

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~~struck-through~~ type are deletions from existing law.

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Law Implemented: 120.53 F.S.

History--New 11-30-81, Formerly 25-21.26, Amended 11-19-86,
8-11-92, Repealed _____.

25-21.027 Division of Consumer Affairs.

~~The Division of Consumer Affairs investigates complaints against regulated utilities. It acts as a liaison between the Commission and the consumer. The division reports to the Commission on complaint activity, testifies in rate cases, participates in rulemaking, and meets with consumer and civic groups to further consumer education.~~

Specific Authority: 120.53 F.S.

Law Implemented: 120.53 F.S.

History--Formerly 25-1.32, Amended 11-30-81, Formerly 25-21.27,
Amended 11-19-86, 8-11-92, Repealed _____.

25-21.028 Division of Electric and Gas.

~~The Division of Electric and Gas evaluates the quantity and quality of service provided by electric and gas utilities and recommends appropriate action when necessary. It participates in formal rate proceedings through reviewing and analyzing testimony and exhibits, assisting in the cross-examination of witnesses, and preparing recommendations covering areas such as plant investments, reserve margins, quality of service, conservation, cogeneration, power plant and transmission line siting, and related items. These functions have the collective goal of ensuring that the public~~

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1
2 ~~receives the lowest cost electricity or natural gas consistent with~~
3 ~~the revenue requirements of the utility so as to provide an~~
4 ~~acceptable level of service.~~

5 Specific Authority: 120.53 F.S.

6 Law Implemented: 120.53 F.S.

7 History--New 11-30-81, Formerly 25-21.28, Amended 11-19-86,
8 8-11-92, _____.

9 25-21.0301 Division of Records and Reporting.

10 ~~The Division of Records and Reporting receives, records,~~
11 ~~distributes, and maintains the official files of all documents~~
12 ~~filed in proceedings before the Commission. The Division maintains~~
13 ~~a computerized document and case management information system;~~
14 ~~issues reports and assists in the coordination of case management~~
15 ~~activities; prepares agendas for the Commission's regular~~
16 ~~conferences; prepares and maintains the official minutes of all~~
17 ~~Commission meetings; makes arrangements for hearings and assigns~~
18 ~~hearing reporters. The Division maintains the master directory of~~
19 ~~utilities, as well as mailing lists of parties to and persons~~
20 ~~interested in proceedings before the Commission; issues all orders~~
21 ~~and notices of the Commission; coordinates the Commission's records~~
22 ~~management program; and, upon request and the payment of~~
23 ~~appropriate fees, provides copies of public records.~~

24 Specific Authority: 120.53 F.S.

25 Law Implemented: 120.53 F.S.

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~~struck-through~~ type are deletions from existing law.

1
2 History--Formerly 25-1.22, Amended 11-30-81, Formerly 25-21.025,
3 Amended 11-19-86, 8-11-92, Repealed _____
4 25-21.031 Division of Research and Regulatory Review.

5 ~~The Division of Research and Regulatory Review prepares~~
6 ~~studies of policy alternatives and economic and demand projections,~~
7 ~~and conducts research to determine trends and conditions affecting~~
8 ~~public utility operations and regulations. The Division also~~
9 ~~conducts in-depth analyses of current and potential problems in~~
10 ~~utility regulation, coordinates and directs the utilization of~~
11 ~~research methods and findings in Commission cases, presents reports~~
12 ~~regarding the results of research studies, and prepares economic~~
13 ~~impact statements on proposed rules. The Division is also~~
14 ~~responsible for monitoring the utilities' current methods of~~
15 ~~operation, conducting studies of utility management efficiency,~~
16 ~~internal control systems, and company operating processes and~~
17 ~~procedures, performing special investigations, and coordinating~~
18 ~~follow-up of its findings with other Commission staff. The Division~~
19 ~~monitors consistency across the Commission's industry divisions for~~
20 ~~rules, policies, and procedures which affect utilities, and~~
21 ~~facilitates internal consistency with regard to operations of the~~
22 ~~various divisions.~~

23 Specific Authority: 120.53 F.S.

24 Law Implemented: 120.5 F.S.

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1
2 History--Formerly 25-1.29, Amended 11-30-81, 2-11-86, Formerly
3 25-21.31, Amended 11-19-86, 8-11-92, Repealed _____.
4 25-21.032 Division of Water and Wastewater.

5 ~~The Division of Water and Wastewater enforces the Commission's~~
6 ~~rules governing the operation of privately owned water and~~
7 ~~wastewater systems in those counties subject to the Commission's~~
8 ~~jurisdiction. The division certifies systems and areas of service.~~
9 ~~It aids the Commission in the regulation of both rates and quality~~
10 ~~of service. The division also serves as the official custodian of~~
11 ~~all water and wastewater companies' annual financial reports.~~

12 Specific Authority: 120.53 F.S.

13 Law Implemented: 120.53 F.S.

14 History--New 11-30-81, Formerly 25-21.32, Amended 11-19-86,
15 Repealed _____.
16 25-21.033 Designation of Agency Clerk.

17 ~~The Director of the Division of Records and Reporting, located~~
18 ~~at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,~~
19 ~~telephone number (904) 413-6770, is designated as the agency clerk.~~
20 ~~The duties and responsibilities of the agency clerk are described~~
21 ~~in Rule 25-21.031, F.A.C.~~

22 Specific Authority: 120.53 F.S.

23 Law Implemented: 120.53 F.S.

24 History--New 8-11-92, Repealed _____.

1
2 PART III OFFICE AND CONFERENCES

3 25-21.040 Principal Office.

4 ~~The principal office of the Commission is located in~~
5 ~~Tallahassee, Florida. Its present street address is 2540 Ghumard~~
6 ~~Oak Boulevard, Tallahassee, Florida, and its present zip code is~~
7 ~~32399-0850.~~

8 Specific Authority: 120.53 F.S.

9 Law Implemented: 120.53 F.S.

10 History--Formerly 25-1.38, Amended 11-30-81, Formerly 25-21.40,
11 Repealed _____.

12 25-21.041 Conferences.

13 ~~Anyone desiring a conference with the Commissioners or~~
14 ~~Commission staff personnel with respect to matters over which the~~
15 ~~Commission has jurisdiction may request such a conference through~~
16 ~~the Commission Chairman, a Commissioner, the Division of Records~~
17 ~~and Reporting, the Executive Director, or the particular staff~~
18 ~~member involved. A written request concerning the purpose and~~
19 ~~anticipated duration of the conference should be furnished in order~~
20 ~~to avoid conflicts and facilitate the availability of staff members~~
21 ~~and records, if needed. In an emergency, the foregoing may be~~
22 ~~communicated by telephone. Nothing in this rule obviates the~~
23 ~~prohibition against ex parte communications in pending cases to~~
24 ~~determine substantial interests.~~

25 Specific Authority: 120.53 F.S.

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Law Implemented: 120.53 F.S.

History--Formerly 25-21.39, Amended 11-30-81, Formerly 25-21.41,

Repealed _____.

25-21.042 Agenda Conferences.

~~Except as regards internal affairs, the Commission makes decisions and votes at agenda conferences. Generally, the agenda conferences take place on the first, third, and fifth Tuesdays of each month and at the Commission's office in Tallahassee. But they may take place at other times and in other places from time to time as necessary and, where possible, as noticed in the Florida Administrative Weekly approximately ten (10) days in advance of each agenda conference. Generally, the Commission conducts its public business at agenda conference with advice, assistance and recommendations of staff. With regard to proposed Commission action, the Commission may call upon others to answer questions or elicit information where such solicitation does not violate the prohibition against ex parte communications in adjudicatory proceedings.~~

Specific Authority: 120.53 F.S.

Law Implemented: 120.53 F.S.

History--Formerly 25-1.40, Amended 11-30-81, Formerly 25-21.42,

Repealed _____.

1
2 25-21.043 Internal Affairs Meetings.

3 ~~Internal Affairs meetings are held for the purpose of~~
4 ~~discussing matters that are not docketed and that relate to the~~
5 ~~Commission's organization, functions, management, operations,~~
6 ~~finances, intra and intergovernmental affairs, and for special~~
7 ~~presentations. Notice of the meetings is published in the Florida~~
8 ~~Administrative Weekly.~~

9 Specific Authority: 120.53 F.S.

10 Law Implemented: 120.53 F.S.

11 History--New 10-4-93, Repealed _____.

12 CHAPTER 25-22

13 RULES GOVERNING PRACTICE AND PROCEDURE

14 PART I GENERAL PROVISIONS

15 25-22.001 Notice of Meeting or Workshop.

16 ~~(1) Except in the case of emergency meetings the Commission~~
17 ~~shall give at least seven (7) days' public notice of any meeting or~~
18 ~~workshop by publication in the Florida Administrative Weekly.~~

19 ~~(2) The Commission shall use the following form in providing~~
20 ~~notice of the meeting or workshop.~~

21 ~~NOTICE OF PUBLIC MEETING OR WORKSHOP~~

22 ~~The Florida Public Service Commission announces a public meeting or~~
23 ~~workshop to which all persons are invited.~~

24 ~~DATE AND TIME: _____~~

25 ~~PLACE: _____~~

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2 PURPOSE: _____

3 ~~A copy of the agenda for any public meeting may be obtained by~~
4 ~~writing to the Division of Records and Reporting at 2540 Shumard~~
5 ~~Oak Boulevard, Tallahassee, Florida 32399-0850.~~

6 ~~(1)(3)~~ A public meeting, for the purposes of notice in Rule
7 28-102.001, F.A.C. herein, is limited to a gathering of
8 Commissioners for the purpose of conducting public business. The
9 term meeting includes Agenda Conference.

10 ~~(2)(4)~~ A workshop, for the purposes of notice in Rule 28-
11 102.001, F.A.C., is a gathering where Commissioners may be present
12 or Commission staff or person(s) designated by the commission are
13 meeting with interested persons for a specific purpose as
14 designated in the notice. The term workshop includes gatherings
15 for the specific purpose of rule drafting at which time no official
16 votes are taken or policy adopted.

17 Specific Authority: 350.127(2) ~~120-53~~ F.S.

18 Law Implemented: 120.525, ~~120-53~~ F.S.

19 History--New 12-21-81, Formerly 25-22.01, Amended _____.
20 25-22.002 Agenda of Meetings.

21 ~~_____ (1) The agenda for meetings shall be prepared by the~~
22 ~~Commission in time to insure that a copy may be received at least~~
23 ~~seven (7) days before the meeting by any person in the State who~~
24 ~~has requested a copy and pays \$1.00 per copy.~~

25
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2 ~~(2) The agenda shall list and specify the items to be~~
3 ~~considered at the meeting.~~

4 ~~(3) For good cause stated on the record, the person~~
5 ~~designated to preside may make specific changes in the agenda after~~
6 ~~it has been made available for distribution. A majority vote of a~~
7 ~~quorum of the Commission is required to modify the presiding~~
8 ~~officer's decision to make a specific change in the agenda.~~

9 ~~(4) Copies of staff recommendations for items on the agenda~~
10 ~~may be obtained from the Division of Records and Reporting upon~~
11 ~~request and the payment of the applicable copying fee. Parties to~~
12 ~~a proceeding are entitled to one copy of the staff recommendation~~
13 ~~filed in the proceeding at no cost.~~

14 Specific Authority: 350,127(2) ~~120.53~~ F.S.

15 Law Implemented: 120.525, ~~120.53~~ F.S.

16 History--New 12-21-81, Formerly 25-22.02, Amended 4-18-94,

17 _____
18 25-22.003 Emergency Meeting.

19 ~~(1) The Commission may hold an emergency meeting for the~~
20 ~~purpose of acting upon emergency matters affecting the public~~
21 ~~health, safety or welfare.~~

22 ~~(2) Whenever an emergency meeting is scheduled to be held,~~
23 ~~the Commission shall notify at least one major newspaper of general~~
24 ~~circulation in the area where the meeting will take place and may~~
25 ~~also notify all major wire services of the time, date, place and~~

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1
2 ~~purpose of the meeting. The Commission shall also notify, by~~
3 ~~telephone, each person who will be affected by the emergency~~
4 ~~action, if such person has requested notice of such emergency~~
5 ~~meetings and has filed with the Division of Records and Reporting~~
6 ~~the name, address and telephone number of a person to contact in~~
7 ~~the event of an emergency meeting.~~

8 ~~(3) Following an emergency meeting, the Commission shall~~
9 ~~publish in the Florida Administrative Weekly, notice of the time,~~
10 ~~date and place of the meeting, a statement setting forth the~~
11 ~~reasons why an emergency meeting was necessary and a statement~~
12 ~~setting forth the action taken at the meeting.~~

13 Specific Authority: 120.53 F.S.

14 Law Implemented: 120.53 F.S.

15 History--New 12-21-81, Formerly 25-22.03, Repealed _____

16 25-22.004 Commission Forms.

17 ~~The Commission maintains certain forms that are required to be~~
18 ~~filed from time to time. These forms are listed hereafter and may~~
19 ~~be obtained at no cost by writing to the indicated division at 2540~~
20 ~~Ghumard Oak Boulevard, Tallahassee, Florida 32399-0050. The Form~~
21 ~~Number shows the effective date of the latest revision of the form~~
22 ~~in parentheses.~~

<u>FORM TITLE</u>	<u>FORM NUMBER</u>	<u>AVAILABLE FROM</u>
Class A&B Water & Wastewater	PSC/WAW4 (11/83)	Water and
Annual Report		Wastewater

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1			
2	Class C Water & Wastewater	PSC/WAW5 (11/83)	Water and
3	Annual Report		Wastewater
4	Class D Water & Wastewater	PSC/WAW6 (11/83)	Water and
5	Annual Report		Wastewater
6	Annual Report of	PSC/BAG2 (11/83)	Auditing and
7	Electric Utilities		Financial
8			Analysis
9	Annual Report of	PSC/BAG1 (11/83)	Auditing and
10	Natural Gas Companies		Financial
11			Analysis
12	Action Plan Report	PSC/APA2 (12/83)	Auditing and
13			Financial
14			Analysis
15	Implementation Plan	PSC/APA3 (12/83)	Auditing and
16	Status Report		Financial
17			Analysis
18	Cost/Benefit Analysis	PSC/APA4 (12/83)	Auditing and
19	of Recommendations		Financial
20			Analysis
21	Executive Summary	PSC/APA5 (12/83)	Auditing and
22	Supplement to Annual		Financial
23	Report of Company		Analysis
24	Subpoena Duces Tecum	PSC/RAR1 (11/83)	Records and
25			Reporting

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1
2 ~~Witness Subpoena~~ ~~PSC/RAR2 (11/83)~~ ~~Records~~ ~~and~~
3 ~~Reporting~~
4 ~~Subpoena for Deposition~~ ~~PSC/RAR3 (11/83)~~ ~~Records~~ ~~and~~
5 ~~Reporting~~
6 ~~Application for~~ ~~PSC/RAR4 (11/83)~~ ~~Records~~ ~~and~~
7 ~~Admission to Practice~~ ~~Reporting~~
8 ~~Miscellaneous Revenue~~ ~~PSC/RAR6 (11/83)~~ ~~Records~~ ~~and~~
9 ~~Invoice Forms~~ ~~Reporting~~
10 ~~Base Rate Area Survey~~ ~~PSC/CMU1 (11/83)~~ ~~Communications~~
11 ~~Report (QR1)~~
12 ~~Summary of Service~~ ~~PSC/CMU2 (11/83)~~ ~~Communications~~
13 ~~Applications (QR2)~~
14 ~~Summary of Complete~~ ~~PSC/CMU3 (11/83)~~ ~~Communications~~
15 ~~Service Orders (New~~
16 ~~Service) (QR3A)~~
17 ~~Summary of Complete~~ ~~PSC/CMU4 (11/83)~~ ~~Communications~~
18 ~~Service Orders (Regrades)~~
19 ~~(QR3B)~~
20 ~~Summary of Held~~ ~~PSC/CMU5 (11/83)~~ ~~Communications~~
21 ~~Applications (New~~
22 ~~Service) (QR4A)~~
23 ~~Held Applications Aged~~ ~~PSC/CMU6 (11/83)~~ ~~Communications~~
24 ~~Over 6 Months (New~~
25 ~~Service) (QR4B)~~

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1			
2	Appointments (QR12B)		
3	Minimum Filing Require	PSC/CMU20 (11/83)	Communications
4	ments (MFR's)		
5	Reseller Application for	PSC/CMU22 (11/83)	Communications
6	Certificate		
7	Regulatory Assessment	PSC/CMU25 (5/84)	Communications
8	Fee Telephone		
9	Regulatory Assessment	PSC/EAG3 (5/84)	Electric & Gas
10	Fee Gas		
11	Regulatory Assessment	PSC/EAG4 (5/84)	Electric & Gas
12	Fee Electric,		
13	Investor Owned		
14	Regulatory Assessment	PSC/EAG5 (5/84)	Electric & Gas
15	Fee Municipal &		
16	REA Electric		
17	Quarterly Report for	PSC/EAG6 (12/83)	Electric & Gas
18	Electric Utilities		
19	Rate of Return Report	PSC/EAG7 (12/83)	Electric & Gas
20	(Electric)		
21	Fuel Cost Recovery Forms	PSC/EAG8 (12/83)	Electric & Gas
22	Forecast of Capital	PSC/EAG9 (12/83)	Electric & Gas
23	Expenditures		
24	Gas Minimum Filing	PSC/EAG10 (12/83)	Electric & Gas
25	Requirements		

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DOCKET NO. 980500-PU
DATE: 2/4/99

1
2 ~~Electric Minimum Filing~~ ~~PSC/EAG11 (12/83)~~ ~~Electric & Gas~~
3 ~~Requirements~~
4 ~~KWH Sales and Customer~~ ~~PSC/EAG12 (12/83)~~ ~~Electric & Gas~~
5 ~~Data~~
6 ~~Overhead/Underground~~ ~~PSC/EAG13 (12/83)~~ ~~Electric & Gas~~
7 ~~Wiring Data~~
8 ~~Conservation Cost~~ ~~PSC/EAG14 (12/83)~~ ~~Electric & Gas~~
9 ~~Effectiveness~~
10 ~~Residential Conservation~~ ~~PSC/EAG15 (12/83)~~ ~~Electric & Gas~~
11 ~~Service Audit~~
12 ~~Conservation Cost~~ ~~PSC/EAG16 (12/83)~~ ~~Electric & Gas~~
13 ~~Recovery Forms~~
14 ~~Loan Guarantee~~ ~~PSC/EAG17 (12/83)~~ ~~Electric & Gas~~
15 ~~Quarterly Report~~
16 ~~Annual Need Forms~~ ~~PSC/EAG18 (12/83)~~ ~~Electric & Gas~~
17 ~~(Supply Side)~~
18 ~~Annual Need Forms~~ ~~PSC/EAG19 (12/83)~~ ~~Electric & Gas~~
19 ~~(Demand Side)~~
20 ~~Typical Monthly Bills~~ ~~PSC/EAG20 (12/83)~~ ~~Electric & Gas~~
21 ~~for Electric Service~~
22 ~~Conservation Progress~~ ~~PSC/EAG21 (12/83)~~ ~~Electric & Gas~~
23 ~~Reporting Forms~~
24 ~~PPSC 423 Fuel Forms~~ ~~PSC/EAG22 (12/83)~~ ~~Electric & Gas~~
25 ~~Quarterly Report of~~ ~~PSC/EAG23 (12/83)~~ ~~Electric & Gas~~

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1			
2	Small Gas Utilities		
3	<u>Quarterly Report of</u>	<u>PSC/EAG24 (12/83)</u>	<u>Electric & Gas</u>
4	Large Gas Utilities		
5	<u>Purchase Gas Adjustment</u>	<u>PSC/EAG25 (12/83)</u>	<u>Electric & Gas</u>
6	Forms		
7	<u>Typical Monthly Bills</u>	<u>PSC/EAG26 (12/83)</u>	<u>Electric & Gas</u>
8	for Gas Service		
9	<u>Therm Sales and Customer</u>	<u>PSC/EAG27 (12/83)</u>	<u>Electric & Gas</u>
10	Data		
11	<u>Rate of Return Report</u>	<u>PSC/EAG28 (12/83)</u>	<u>Electric & Gas</u>
12	(Gas)		
13	<u>Application for Staff</u>	<u>PSC/WAW2 (11/83)</u>	<u>Water &</u>
14	<u>Assistance</u>		<u>Wastewater</u>
15	<u>Application for</u>	<u>PSC/WAW7 (11/83)</u>	<u>Water &</u>
16	<u>Transfer of</u>		<u>Wastewater</u>
17	Certificate		
18	-		
19	<u>Application for</u>	<u>PSC/WAW8 (11/83)</u>	<u>Water &</u>
20	<u>Amendment of</u>		<u>Wastewater</u>
21	Certificate		
22	<u>Application for</u>	<u>PSC/WAW9 (11/83)</u>	<u>Water &</u>
23	<u>Original Certificate</u>		<u>Wastewater</u>
24	<u>Regulatory Assessment</u>	<u>PSC/WAW10 (5/84)</u>	<u>Water &</u>
25	<u>Fee Water & Sewer</u>		<u>Wastewater</u>

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1
2 ~~Sales to Nonprofit~~ ~~PSC/WAW11(1/84)~~ ~~Water &~~
3 ~~Agencies~~ ~~Wastewater~~
4 ~~Sales to Government~~ ~~PSC/WAW12(1/84)~~ ~~Water &~~
5 ~~Agencies~~ ~~Wastewater~~
6 ~~Jurisdictional~~ ~~PSC/WAW13(1/84)~~ ~~Water &~~
7 ~~information~~ ~~Wastewater~~
8 ~~Application for~~ ~~PSC/WAW14(1/84)~~ ~~Water &~~
9 ~~Certificate (Grandfather~~ ~~Wastewater~~
10 ~~Rights)~~
11 ~~Price Index Adjustments~~ ~~PSC/WAW15(1/84)~~ ~~Water &~~
12 ~~in Rates~~ ~~Wastewater~~
13 ~~Pass through Rate~~ ~~PSC/WAW16(1/84)~~ ~~Water &~~
14 ~~Adjustments~~ ~~Wastewater~~
15 Specific Authority 120.53(1)(b) FS.
16 Law Implemented 120.53(1)(b) FS.
17 History--New 6-7-84, Formerly 25-22.04, Amended 4-16-90, 8-21-90,
18 8-23-90, Repealed _____.
19 25-22.005 Noticing Address Files.
20 ~~The Division of Records and Reporting ("the Division") shall~~
21 ~~maintain a main noticing address file for purposes of distributing~~
22 ~~Commission agenda, notices of workshops and rulemaking and, where~~
23 ~~appropriate, other notices and orders. The Division shall also~~
24 ~~maintain an individual noticing address file for each docket for~~
25

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DATE: 2/4/99

1
2 ~~purposes of distributing Commission notices and orders issued in~~
3 ~~that docket.~~

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

11 ~~—— (a) Persons requesting the Commission agenda (subject to~~
12 ~~payment of subscription fee);~~

13 ~~—— (b) Persons requesting the weekly report of new dockets~~
14 ~~(subject to payment of subscription fee);~~

15 ~~—— (c) Persons requesting the weekly summary of Commission~~
16 ~~orders (subject to payment of subscription fee);~~

17 ~~—— (d) Persons requesting notices of Commission workshops;~~

18 ~~—— (e) Persons requesting notices of proposed rulemaking; and~~

19 ~~—— (f) Persons requesting copies of Commission notices of~~
20 ~~hearings and orders initiating industry-wide nonrule proceedings.~~

21 ~~Any person seeking to be on this list shall state with specificity~~
22 ~~how his substantial interests may be affected by Commission action~~
23 ~~in the categories of his interest. (For instance, a customer's~~
24 ~~rates or service may be affected, or a regulated utility's rates or~~

25

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2 ~~service may be affected). Absent such a showing, a person will not~~
3 ~~be included on this list.~~

4 ~~— (2) The three lists described in paragraphs (1) (d) (f) are~~
5 ~~further subdivided into the following categories:~~

6 ~~— (a) Electric~~

7 ~~— (b) Gas~~

8 ~~— (c) Telecommunications~~

9 ~~— (d) Water and Wastewater~~

10 ~~— (e) Practice and Procedure~~

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

21 ~~— (4) Purge of Main File. During the first quarter of each~~
22 ~~calendar year the Division shall transmit to all persons listed in~~
23 ~~the main file under the lists described in (1) (a) (f) a written~~
24 ~~request to confirm the name, address and telephone number on file~~
25 ~~and the types of notices to be received. Any person who fails to~~

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2 ~~confirm the foregoing in writing within 30 days after the date of~~
3 ~~the Division's request shall be stricken from the main noticing~~
4 ~~address file.~~

5 ~~—— (5) Addresses of Regulated Companies. Each regulated company,~~
6 ~~as defined in Section 350.113, F.C., shall, in writing and within~~
7 ~~30 days of the effective date of this rule, provide the Division~~
8 ~~with a single official mailing address to be placed in the main~~
9 ~~noticing address file. Except in a docket where a company~~
10 ~~representative has previously provided an alternative address, the~~
11 ~~Commission is obliged only to transmit its orders, notices and~~
12 ~~other documents (such as regulatory assessment fee notices and~~
13 ~~annual report forms) to the official address. The Commission may,~~
14 ~~solely as a courtesy, transmit documents to additional addresses.~~
15 ~~Initial pleadings served by parties shall be transmitted to the~~
16 ~~official address on file. When a regulated company has filed a~~
17 ~~document in a docket and such document shows the name and address~~
18 ~~of counsel or other official representative and that name and~~
19 ~~address is different from the official mailing address it shall be~~
20 ~~recorded in the docket mailing address file in lieu of the official~~
21 ~~address. All documents thereafter served on the regulated company~~
22 ~~shall be transmitted to that address.~~

23 ~~—— (6) Docket File. Individual docket mailing address files~~
24 ~~shall be maintained as part of each docket file and contain the~~
25 ~~name, address and phone number of each party of record, or its~~

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2 ~~representative, and each person requesting copies of notices and~~
3 ~~orders issued in that docket and qualifying under this subsection.~~

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

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

24 ~~—— (8) The Division Director may grant requests to be placed in~~
25 ~~the main file under (1)(f) or requests to be placed in a docket~~

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1
2 ~~noticing address file. The Chairman will rule on all such requests~~
3 ~~that the Division Director recommends be denied.~~

4 Specific Authority: 120.53 F.S.

5 Law Implemented: 120.53 F.S.

6 History--New 8-21-84, Formerly 25-22.05, Amended 7-11-96, Repealed

7 _____
8 25-22.008 Practitioners.

9 ~~(1) To practice law before the Commission, one must qualify~~
10 ~~either as a Class A or a Class B practitioner; however,~~
11 ~~self representation is not precluded by this rule. For the purposes~~
12 ~~of this Rule:~~

13 ~~— (a) The Class A practitioner is licensed to practice law in~~
14 ~~the State of Florida or elsewhere in the United States.~~

15 ~~— (b) The Class B practitioner is licensed to practice before~~
16 ~~the Commission as provided by this rule.~~

17 ~~— (c) The "practice of law" includes, but is not limited to:~~

18 ~~— 1. Introduction of evidence;~~

19 ~~— 2. Examination and cross examination of witnesses;~~

20 ~~— 3. Determining the qualifications or expertise of witnesses;~~

21 ~~— 4. Making both written and oral motions and arguing same;~~

22 ~~— 5. Objecting to evidence and arguing thereon;~~

23 ~~— 6. Making decisions affecting important legal rights and~~
24 ~~obligations of clients, and~~

25 ~~— 7. Filing written pleadings.~~

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2 ~~8. Conducting discovery.~~

3 ~~(2) Class A practitioners:~~

4 ~~(a) One licensed to practice law in the State of Florida may~~
5 ~~practice law before the Commission by making an appearance at the~~
6 ~~proceeding in which the practitioner is representing the legal~~
7 ~~interests of his or her client.~~

8 ~~(b) One licensed to practice law elsewhere in the United~~
9 ~~States may practice law before the Commission by obtaining~~
10 ~~sponsorship of a person licensed to practice law in the State of~~
11 ~~Florida, making an appearance at the proceeding in which the~~
12 ~~practitioner is representing the legal interests of his or her~~
13 ~~client, and certifying that he or she has practiced before utility~~
14 ~~regulatory bodies in other states or at the federal level.~~

15 ~~(3) Class B practitioners:~~

16 ~~(a) A person who wishes to practice before the Commission may~~
17 ~~do so by applying to the Commission's Director of Records and~~
18 ~~Reporting for a Class B certification, completing the application,~~
19 ~~satisfying the Commission via the written application that he or~~
20 ~~she possesses legal skills and a knowledge of the law and utility~~
21 ~~regulatory matters which is greater than that possessed by the~~
22 ~~average person, and making an appearance before the Commission as~~
23 ~~a Class B practitioner.~~

24 ~~Specifically, the applicant for a Class B certification must~~
25 ~~detail:~~

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~~1. Name, mailing address and street address, business telephone number, employer, and occupation;~~

~~2. Knowledge of Commission jurisdiction and the relief obtainable from the Commission;~~

~~3. Education and experience relative to Chapter 120, F.S., Rules 9.020, 9.100, 9.110, 9.310 and 9.800 of the Florida Rules of Appellate Procedure, the Florida Rules of Civil Procedure as they relate to discovery in administrative proceedings, rules of evidence including the concept of hearsay and its use in administrative proceedings, relevant chapters of Title 25 of the Florida Administrative Code, and relevant chapters of Florida Statutes governing the Commission; and~~

~~4. Knowledge of the Standards of Conduct for Administrative Proceedings as contained in Rule 28-5.1056, Florida Administrative Code; and~~

~~5. Educational background, training and work experience relative to utility regulation.~~

~~(b) The applicant for a Class B certification may specify that he or she wishes to limit practice before the Commission. Under such a circumstance, the Commission will evaluate the applicant's qualifications with regard for the limitation on practice. Where the application is granted under this paragraph;~~

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2 ~~the Commission will issue the Class B certification with~~
3 ~~appropriate notations as to the limitations imposed.~~

4 ~~— (c) The Office of the General Counsel will determine the~~
5 ~~qualifications of any applicant for a Class B certification and may~~
6 ~~grant the application. Where, however, the Office of General~~
7 ~~Counsel determines that the application should be denied, its~~
8 ~~recommendation shall come to the Commission's attention at agenda~~
9 ~~conference and the Commission shall dispose of the application.~~

10 ~~— (d) Each Class B practitioner who is not employed by either~~
11 ~~the Commission or the Office of the Public Counsel and who desires~~
12 ~~to participate in a proceeding shall, prior to participating on~~
13 ~~behalf of a client for the first time before the Commission, file~~
14 ~~a notice of representation with the Director of Records and~~
15 ~~Reporting.~~

16 ~~— 1. The notice shall be accompanied by a signed, written~~
17 ~~statement of the person desiring non-attorney representation~~
18 ~~stating the person's acceptance and approval of representation~~
19 ~~by the Class B practitioner in Commission proceedings. The~~
20 ~~statement shall include a description of the nature and extent~~
21 ~~of the services the Class B practitioner can and will provide.~~

22 ~~— 2. Class B practitioners must file an updated notice and~~
23 ~~statement with the Director of Records and Reporting no later~~
24 ~~than June 30 of each even-numbered year.~~

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2 ~~—— (e) The Commission may revoke or suspend a Class B~~
3 ~~certification after hearing for good cause, which shall include,~~
4 ~~but not be limited to, a violation of the Standards of Conduct~~
5 ~~contained in Rule 28 5.1056, Florida Administrative Code.~~

6 ~~—— (f) Each Class B practitioner shall promptly notify the~~
7 ~~Director of Records and Reporting of any changes to the~~
8 ~~practitioner's mailing address, street address or business~~
9 ~~telephone number.~~

10 ~~—— (g) If a person holding Class B certification does not~~
11 ~~practice before the Commission or is not employed by the Commission~~
12 ~~or the Office of the Public Counsel for a period of two consecutive~~
13 ~~years, the certification shall terminate without further action of~~
14 ~~the Commission. Not later than June 30 of each even-numbered year,~~
15 ~~each Class B practitioner who wishes to continue his or her~~
16 ~~certification shall furnish the Director of Records and Reporting~~
17 ~~with information sufficient to establish that he or she has~~
18 ~~appeared before the Commission on behalf of a client during the~~
19 ~~previous two calendar years.~~

20 ~~—— (4) Self representation, which includes individuals appearing~~
21 ~~on their own behalf and representation of a corporation or other~~
22 ~~entity within the meaning of "person" as defined in section 1.01,~~
23 ~~Florida Statutes, by an officer of the corporation or entity, is~~
24 ~~not precluded by this rule.~~

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2 ~~(5) Rule 28-5.1056, Florida Administrative Code, entitled~~
3 ~~"Standards of Conduct for Administrative Proceedings," is~~
4 ~~incorporated by reference into this rule and applies to~~
5 ~~practitioners in any Commission proceeding other than practitioners~~
6 ~~subject to the disciplinary procedures of The Florida Bar.~~

7 ~~(6) A practitioner representing a party in an evidentiary~~
8 ~~proceeding shall not appear as a witness in any hearing in that~~
9 ~~proceeding except where the Commission determines:~~

10 ~~(a) the testimony relates to an uncontested issue;~~

11 ~~(b) the testimony will relate solely to a matter of formality~~
12 ~~and there is no reason to believe that substantial evidence will be~~
13 ~~offered in opposition to the testimony;~~

14 ~~(c) the testimony relates to the nature and value of the~~
15 ~~practitioner's services rendered in the case; or~~

16 ~~(d) disqualification of the practitioner would work~~
17 ~~substantial hardship on the person desiring non-attorney~~
18 ~~representation.~~

19 Specific Authority: 120.53 F.S.

20 Law Implemented: 120.53 F.S.

21 History--New 9-24-81, Formerly 25-22.08, Amended 3-21-94, Repealed

22 _____

1
2 PART II RULEMAKING PROCEEDINGS

3 25-22.012 Petitions to Initiate Rulemaking Proceedings.

4 ~~(1) All petitions for the initiation of rulemaking~~
5 ~~proceedings pursuant to Section 120.54(5), F.S., must contain the~~
6 ~~name and address of the petitioner, specific reasons for the~~
7 ~~proposed adoption, amendment or repeal, the specific action~~
8 ~~requested, the date submitted, and the proposed rule or amendment.~~

9 ~~(2) Any interested person may file a statement in support of~~
10 ~~or in opposition to any petition for the initiation of rulemaking~~
11 ~~proceedings. The interested person shall furnish the petitioner~~
12 ~~with a copy upon filing of the statement.~~

13 ~~(3) Any interested person may submit a reply to the statement~~
14 ~~in subsection (2) prior to the Commission action. The interested~~
15 ~~person shall furnish the petitioner and the person(s) filing under~~
16 ~~subsection (2) with a copy upon filing of the reply.~~

17 Specific Authority: 120.53 F.S.

18 Law Implemented: 120.53 F.S.

19 History--New 12-21-81, Formerly 25-22.12, Repealed_____.

20 25-22.013 Commission Action on Petitions to Initiate Rulemaking
21 Proceedings.

22 ~~(1) Upon receipt of any petition for the initiation of~~
23 ~~rulemaking pursuant to Section 120.54(5), F.S., the Division of~~
24 ~~Records and Reporting shall assign the petition an identification~~
25 ~~number. The Division of Records and Reporting shall publish notice~~

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~~of receipt of the petition in the next available issue of the Florida Administrative Weekly, and shall send a copy of the petition to the Administrative Procedures Committee.~~

~~(2) (a) If the Commission determines that the petitioner is not regulated by the Commission, does not have a substantial interest in the Commission rule, or does not have the interest as stated in the petition, the Commission may forthwith dismiss the petition, and shall notify the petitioner in writing, stating with particularity, the reasons for the dismissal.~~

~~(b) If the Commission determines that rulemaking should not be initiated, it shall deny the petition and issue to the petitioner a written statement setting forth, with particularity, the reasons for such denial.~~

~~(c) If the Commission determines that the petition should be granted, it shall initiate rulemaking in accordance with Chapter 120, F.S.~~

~~(3) Notice of the Commission's disposition of the petition shall be published in the next available issue of the Florida Administrative Weekly.~~

Specific Authority: 120.53 F.S.

Law Implemented: 120.53 F.S.

History--New 12-21-81, Formerly 25-22.13, Repealed _____.

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2 25-22.014 Rulemaking Materials.

3 ~~(1) After the publication of notice initiating rulemaking,~~
4 ~~the Commission shall make available for public inspection and shall~~
5 ~~provide upon request, copies of the following materials:~~

6 ~~— (a) The text of the proposed rule, or any amendment, or~~
7 ~~repeal of any existing rule;~~

8 ~~— (b) A detailed written statement justifying the proposed~~
9 ~~rule;~~

10 ~~— (c) A copy of the economic impact statement required by §~~
11 ~~120.54, F.G.;~~

12 ~~— (d) A statement comparing the proposed rule with any~~
13 ~~applicable federal rules, regulations or standards, or a statement~~
14 ~~that no comparable federal standards exists;~~

15 ~~— (e) The published notice.~~

16 ~~(2) Thereafter, the Commission shall make available for~~
17 ~~public inspection all written material submitted into the~~
18 ~~rulemaking record.~~

19 Specific Authority: 120.53 F.S.

20 Law Implemented: 120.53 F.S.

21 History--New 12-21-81, Formerly 25-22.14, Repealed _____.

22 25-22.015 Rulemaking Proceeding -- No Hearing.

23 ~~When no hearing is requested in writing, and when the~~
24 ~~Commission chooses not to initiate a hearing on its own, the~~
25 ~~Commission may direct that the proposed rule be filed with the~~

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2 ~~Department of State no less than twenty one (21) days following~~
3 ~~notice.~~

4 Specific Authority: 120.53 F.S.

5 Law Implemented: 120.53 F.S.

6 History--New 12-21-81, Formerly 25-22.15, Repealed _____.

7 25-22.016 Rulemaking Proceeding -- Hearing.

8 ~~(1) If the proposed rule does not relate exclusively to~~
9 ~~organization, practice, or procedure, the Commission shall provide,~~
10 ~~upon written request, a public hearing for presentation of~~
11 ~~evidence, argument, and oral statements, within reasonable~~
12 ~~conditions and limitations imposed by the Commission to avoid~~
13 ~~duplication, irrelevant comments, unnecessary delay, or disruption~~
14 ~~of the proceeding. Written statements may be submitted to the~~
15 ~~Commission, if it conducts the public hearing, within seven days~~
16 ~~following the conclusion of the hearing by any person participating~~
17 ~~in the proceeding, and such statements shall be made a part of the~~
18 ~~record.~~

19 ~~— (2) Unless the Commission orders otherwise, a public hearing~~
20 ~~shall be held only if an affected person requests a hearing in~~
21 ~~writing within fourteen (14) days after the date of publication of~~
22 ~~the notice.~~

23 ~~— (3) The Commission may take official recognition of any~~
24 ~~material that is of common and general knowledge, authoritatively~~
25 ~~well settled and free from uncertainty. If the material is~~

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2 ~~officially recognized by the Commission, it is deemed to be~~
3 ~~admissible without the necessity of the offering person presenting~~
4 ~~evidence. This material shall be part of the record and all~~
5 ~~affected persons shall be given a reasonable opportunity to examine~~
6 ~~and offer written comments and argument in opposition.~~

7 ~~— (4) Upon written request of any affected person, the~~
8 ~~Commission shall cause to be made a transcript of the proceedings,~~
9 ~~and copies of the transcript of the proceeding shall be available~~
10 ~~to the public. Cost of preparing the transcript and having the~~
11 ~~proceeding recorded shall be paid by the requesting person. A copy~~
12 ~~of the transcript shall be available to the public at cost.~~
13 ~~However, if the Commission on its own decides to record the~~
14 ~~proceeding and have a transcript made, a copy of the transcript~~
15 ~~shall be made available to any person at cost. If the Commission is~~
16 ~~not going to provide a court reporter, it shall notify each person~~
17 ~~who has requested a hearing.~~

18 ~~— (5) The Commission, one or more members thereof, or any staff~~
19 ~~member designated by the Commission may preside at a hearing held~~
20 ~~pursuant to Section 120.54(3), F.S. If a single Commissioner or~~
21 ~~staff member serves as presiding officer at such hearing, any~~
22 ~~person participating in the proceeding may submit a written~~
23 ~~statement to the presiding officer for inclusion in the record~~
24 ~~within seven days following conclusion of the hearing. If the~~
25 ~~presiding officer determines that time permits, he may distribute~~

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2 ~~a final recommended version of the rule to all persons~~
3 ~~participating at the hearing and shall accept any exceptions to the~~
4 ~~final recommended version submitted by such persons within ten days~~
5 ~~of its distribution, or within such other time as the presiding~~
6 ~~officer designates. The presiding officer shall prepare a summary~~
7 ~~of the hearing and recommendation for changes in the proposed rule~~
8 ~~to the Commission for final action.~~

9 ~~— (6) (a) — At any time prior to the conclusion of a public~~
10 ~~hearing conducted under the provisions of Section 120.54(3), any~~
11 ~~person may request a hearing pursuant to § 120.54(16), P.S. In~~
12 ~~doing so, he must assert that his substantial interests will be~~
13 ~~affected by rulemaking, and he must affirmatively demonstrate that~~
14 ~~the rulemaking proceedings do not provide an adequate opportunity~~
15 ~~to protect his substantial interests. He must request that the~~
16 ~~hearing be conducted under the provisions of § 120.57 to the extent~~
17 ~~necessary to provide that opportunity and to protect his~~
18 ~~substantial interests. The party shall file a petition with the~~
19 ~~person conducting the rulemaking proceeding or with the Commission~~
20 ~~substantiating the matters asserted by the party by setting forth~~
21 ~~specific facts supportive of the claim that the rulemaking~~
22 ~~proceedings will not provide an adequate opportunity to protect his~~
23 ~~substantial interests.~~

24 ~~— (b) — The Commission shall determine the merits of the petition~~
25 ~~and issue its order granting or denying it. The Commission may hold~~

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2 ~~a hearing for this purpose pending the Commission's determination~~
3 ~~of the merits of the petition, the rulemaking hearing may continue.~~

4 ~~A person requesting a § 120.54(16) hearing shall not be deemed to~~
5 ~~have waived that request by his continued participation in the~~
6 ~~rulemaking hearing.~~

7 ~~— (c) If the petition is denied, the rulemaking proceedings~~
8 ~~shall continue. The denial shall be reduced to writing in the~~
9 ~~Commission's final order regarding the proposed rule.~~

10 ~~— (d) When a petition for a hearing under the provisions of~~
11 ~~Section 120.57 is granted, the rulemaking proceeding shall be~~
12 ~~suspended. Upon the conclusion of the Section 120.57 proceeding,~~
13 ~~the rulemaking proceeding shall be resumed.~~

14 ~~— (e) In no event shall the Commission file the proposed rule~~
15 ~~for adoption until a petition for a hearing under Section 120.57~~
16 ~~has been denied or until the issues raised in the petition have~~
17 ~~been resolved.~~

18 ~~— (f) Unless the Commission rejects the request at the time the~~
19 ~~right is asserted, the Commission shall publish notice in the~~
20 ~~Florida Administrative Weekly that a petition has been filed. The~~
21 ~~notice shall contain sufficient information to advise substantially~~
22 ~~affected persons of the matters asserted in the petition and any~~
23 ~~proceedings to be held on the petition.~~

24 Specific Authority: 120.53 F.S.

25 Law Implemented: 120.53 F.S.

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2 History--New 12-21-81. Amended 10-23-83, Formerly 25-22.16,
3 Repealed _____.

4 25-22.017 Rulemaking Proceeding -- Adoption.

5 (1) At a public meeting, the Commission shall consider the
6 record, the proposed rule, timely exceptions to the presiding
7 officer's final recommended version, if permitted, and the
8 recommendation of the presiding officer. The Commission may also
9 question staff and other persons as part of its deliberations prior
10 to adopting, rejecting or modifying the proposed rule.

11 (2) Oral argument and petitions for reconsideration are not
12 appropriate to the rulemaking process. However, any interested
13 person may petition the Commission after a rule is adopted or
14 amended, for initiation of rulemaking proceedings pursuant to Rule
15 28-103.006 ~~25-22.012~~, to amend or otherwise modify the adopted rule
16 or amendment.

17 ~~(3) Where a variance from a rule is requested, the Commission~~
18 ~~shall treat the request as a petition for a § 120.57, F.G.,~~
19 ~~hearing. Unless waived by all parties, the provisions of §~~
20 ~~120.57(1), F.G., and Part IV of these rules shall apply whenever~~
21 ~~the proceeding involves a disputed issue of material fact. In cases~~
22 ~~where the provisions of § 120.57(1), F.G., do not apply, the~~
23 ~~provisions of § 120.57(2), (3), F.G., shall be followed.~~

24 Specific Authority: 350.127(2) ~~120-53~~ F.S.

25 Law Implemented: 120.525, 120.54(3) ~~120-53~~ F.S.

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2 History--New 12-21-81, Amended 10-25-83, Formerly 25-22.17, Amended

3 _____
4 25-22.018 Emergency Rule Adoption.

5 ~~(1) The Commission may adopt an emergency rule if:~~

6 ~~(a) The Commission finds that immediate danger to the public~~
7 ~~health, safety and welfare exists which requires immediate~~
8 ~~Commission action; and~~

9 ~~(b) The Commission complies with the requirements of 5~~
10 ~~120.54(9)(a)3., P.S.~~

11 ~~(2) Unless it defeats the purpose of an emergency rule, the~~
12 ~~Commission should notify major wire services and notice all~~
13 ~~affected persons before adopting an emergency rule. The Commission~~
14 ~~shall permit, upon request, all affected persons to present~~
15 ~~testimony, evidence, and submit written statements.~~

16 ~~(3) Upon the request of any affected person, the commission~~
17 ~~shall cause a transcript to be made of the proceeding and shall~~
18 ~~compile a record, consisting of the transcript, copies of the~~
19 ~~notice and statement filed with the Department of State pursuant to~~
20 ~~subsection (1) above, and any other matter or information~~
21 ~~considered by the Commission in adopting the emergency rule. Cost~~
22 ~~of preparing the transcript shall be paid by the requesting person.~~
23 ~~In any event, a recording shall be made of the proceeding.~~

24 ~~(4) Notwithstanding subsections (2) and (3) above, the~~
25 ~~Commission may use any procedure which is fair under the~~

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2 ~~circumstances in the adoption of an emergency rule as long as it~~
3 ~~protects the public interest and otherwise complies with applicable~~
4 ~~statutory provisions.~~

5 Specific Authority: 120.53 F.S.

6 Law Implemented: 120.53 F.S.

7 History--New 12-21-81, Formerly 25-22.18, Repealed _____.

8 PART III DECLARATORY STATEMENTS

9 25-22.020 General.

10 ~~(1) Any person may seek a declaratory statement as to the~~
11 ~~applicability of a specific statutory provision or of any rule or~~
12 ~~order of the Commission as it applies to the Petitioner in his or~~
13 ~~her particular set of circumstances only. The Commission shall give~~
14 ~~notice of each petition, briefly stating the question presented, in~~
15 ~~the manner prescribed by § 120.565, FS., and shall similarly give~~
16 ~~notice of the disposition of each petition, briefly explaining the~~
17 ~~Commission's response. Copies of each petition and disposition~~
18 ~~thereof shall also be furnished to the Administrative Procedures~~
19 ~~Committee.~~

20 ~~— (2) The petition seeking a declaratory statement shall be~~
21 ~~filed in writing with the Commission and shall provide~~
22 ~~substantially the following information:~~

23 ~~Petition for Declaratory Statement~~

24 ~~— (a) Name of Petitioner _____~~

25 ~~— (b) Address of Petitioner _____~~

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~~(c) Name of Agency _____~~

~~(d) Commission rule, order or statutory provision on which
declaratory statement is sought _____.~~

~~(e) Description of how this rule, order or statute may or
does affect the petitioner in his/her particular set of
circumstances only.~~

~~Signature of Petitioner~~

~~Address~~

~~Date _____~~

Specific Authority: 120.53 F.S.

Law Implemented: 120.53 F.S.

History--New 12-21-81, Formerly 25-22.20, Repealed _____.

25-22.021 Purpose and Use of Declaratory Statement.

~~A declaratory statement is a means for resolving a controversy
or answering questions or doubts concerning the applicability of
any statutory provision, rule or order as it does, or may, apply to
petitioner in his or her particular circumstances only. The
potential impact upon petitioner's interests must be alleged in
order for petitioner to show the existence of a controversy,
question or doubt.~~

Specific Authority: 120.53 F.S.

Law Implemented: 120.53 F.S.

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2 History--New 12-21-81, Formerly 25-22.21, Repealed _____.
3 25-22.022 Disposition.

4 ~~(1) The Commission may hold a hearing to dispose of a~~
5 ~~petition submitted pursuant to § 120.565, FG. If a hearing is held~~
6 ~~it shall be conducted pursuant to § 120.57 on an expedited basis,~~
7 ~~or as otherwise agreed upon by the Commission and the parties.~~

8 ~~(2) A Commission order shall be rendered as prescribed in §~~
9 ~~120.59, FG.~~

10 ~~(3) Except as provided in subsection (1) of this rule, oral~~
11 ~~argument or rebuttal to staff recommendations regarding the~~
12 ~~petition are inappropriate to the proceedings under this Part, and~~
13 ~~the Commission may deny request for same.~~

14 Specific Authority: 120.53 F.S.

15 Law Implemented: 120.53 F.S.

16 History--New 12-20-81, Formerly 25-22.22, Repealed _____.

17 PART IV DECISIONS DETERMINING SUBSTANTIAL INTERESTS

18 Subpart A General Provisions

19 25-22.025 Scope and Title of Rules.

20 ~~This part shall apply in all proceedings in which substantial~~
21 ~~interests of a party are determined by the Commission. This part~~
22 ~~shall be construed to secure the just, speedy, and inexpensive~~
23 ~~determination of every proceeding. Specifically, this part applies~~
24 ~~to all proceedings under § 120.57, FG., as well as those initiated~~
25 ~~under § 120.60 or 120.54(16), FG., which are required to be~~

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2 ~~conducted in accordance with § 120.57 FS. This part does not apply~~
3 ~~to rulemaking, except as provided by § 120.54(16), FS. Nor does~~
4 ~~this part apply to Commission inquiries or investigations or to~~
5 ~~determinations of probable cause preliminary to Commission action.~~

6 Specific Authority: 120.53 F.S.

7 Law Implemented: 120.53 F.S.

8 History--New 12-21-81, Formerly 25-22.25, Repealed _____.

9 25-22.026 Parties.

10 ~~(1) Parties in any proceeding conducted in accordance with §~~
11 ~~120.57, F.S., are complainants, applicants, petitioners,~~
12 ~~protestants, respondents, or intervenors. Parties shall be~~
13 ~~entitled to receive copies of all pleadings, motions, notices,~~
14 ~~orders and other matters filed in a proceeding, and shall be~~
15 ~~entitled to all rights afforded under Chapter 120, FS. According~~
16 ~~to the nature of the proceeding, the term "party" may include the~~
17 ~~Commission.~~

18 ~~(2) If it appears that the determination of the rights of~~
19 ~~parties in a proceeding will necessarily involve a determination of~~
20 ~~the substantial interests of persons who are not parties, the~~
21 ~~presiding officer may, upon motion of a party, or upon his or her~~
22 ~~own initiative enter an order requiring that the absent person be~~
23 ~~notified of the proceeding and be given an opportunity to be joined~~
24 ~~as a party of record.~~

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2 ~~(3) The Commission staff may participate as a party in any~~
3 ~~proceeding. Their primary duty is to represent the public interest~~
4 ~~and see that all relevant facts and issues are clearly brought~~
5 ~~before the Commission for its consideration.~~

6 ~~(4) (a) In cases assigned to the Division of Administrative~~
7 ~~Hearings, the Commission staff's role is to represent the public~~
8 ~~interest and be neither in favor of nor against any particular~~
9 ~~party, unless the Commission is enforcing rules or statutes through~~
10 ~~a show cause or similar proceeding, or unless the Commission is a~~
11 ~~respondent at the Division of Administrative Hearings. Staff is~~
12 ~~not a party in interest and has no substantial interests that may~~
13 ~~be affected by the proceeding. Commission staff's role shall be to~~
14 ~~assist in developing evidence to ensure a complete record so that~~
15 ~~all relevant facts and issues are presented to the fact finder. Any~~
16 ~~position that staff has prior to the hearing is preliminary; final~~
17 ~~positions are based upon review of the complete record.~~

18 ~~(b) When advocating a position, Commission staff may testify~~
19 ~~and offer exhibits, and such evidence shall be subject to~~
20 ~~cross examination to the same extent as evidence offered by any~~
21 ~~other party.~~

22 Specific Authority: 120.53 F.S.

23 Law Implemented: 120.53 F.S.

24 History--New 12-21-81, Formerly 25-22.26, Amended 8-25-91, Repealed

25 _____

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2 25-22.028 Filing, Number of Copies ~~Service of Documents, and~~
3 ~~Computation of Time.~~

4 (1) Filing. Filing shall be accomplished by submitting the
5 original document and the appropriate number of copies, as provided
6 by rule, to the Division of Records and Reporting (Division).
7 Filing may be made by U.S. Mail, hand delivery, or courier service.
8 Filings on behalf of companies with gross annual operating revenues
9 derived from intrastate business in excess of \$750,000, Class A
10 water and sewer utilities, and parties to proceedings affecting
11 these entities, shall also include a copy of the document on
12 diskette in word processing or spreadsheet format, whichever is
13 appropriate, when filing documents capable of being generated by
14 word processing or spreadsheet software. Material for which a
15 request for confidential classification is pending under Rule
16 25-22.006, Florida Administrative Code, should not be included in
17 a diskette copy. The diskette filing need not recreate document
18 attachments not originally generated for the purpose of filing with
19 the Commission, such as exhibits attached to a petition. The copy
20 of the document on diskette shall be filed within 1 working day of
21 the date the original printed document is filed. Information about
22 the word processing and spreadsheet software preferred by the
23 Commission may be obtained from the Director of the Division. Each
24 diskette shall be accompanied by a statement specifying the density
25 of the diskette, the operating system and the software used to

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2 prepare the document on diskette. For purposes of the requirement
3 that copies of documents be filed on diskette, "document" means all
4 prehearing statements regardless of length, and pleadings, post
5 hearing statements of positions on issues or briefs, proposed
6 findings of fact and conclusions of law in excess of 5 pages
7 exclusive of the service list. ~~The prehearing officer assigned to~~
8 ~~the proceeding may grant exceptions to the requirement for filing~~
9 ~~documents on diskette on a case by case basis, for good cause~~
10 ~~shown.~~ In case of a discrepancy between an original printed
11 document that is filed and the document on diskette, the filed
12 original document shall prevail. ~~Filing shall be completed upon~~
13 ~~receipt by the Division; provided, however, that during the course~~
14 ~~of a hearing before the Commission or a panel thereof, the~~
15 ~~presiding chairman may accept a document for filing and shall note~~
16 ~~the filing date and transmit it to the Division.~~ If the filing is
17 made with the presiding officer during the course of a hearing, as
18 provided by Rule 28-106.104(1), in this situation the responsible
19 party shall ensure that a copy of the document is submitted on
20 diskette to the Division within 5 working days. ~~The date a~~
21 ~~document is submitted for filing shall be noted by the person~~
22 ~~making the filing on the first page of the document filed.~~ Where
23 a document is served upon a party pursuant to these rules, its
24 original and the appropriate copies, or, in the case of
25 interrogatories or production of documents, a notice of service,

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2 shall be filed with the Division no later than 5 days after
3 service.

4 [Note: The following is transferred from 25-22.0375(3):]

5 (2) Number of Copies. The original and seven copies of all
6 pleadings shall be submitted to the Division of Records and
7 Reporting. However, initial pleadings for increases in rates,
8 except rate increases by water and wastewater utilities, shall be
9 filed with 20 copies. The requirement for filing 20 copies shall
10 apply to all exhibits appended to the original petition, prepared
11 testimony and exhibits, briefs and other supplemental data
12 requested by the Commission.

13 ~~(2) Service. A copy of all documents filed pursuant to these~~
14 ~~rules shall be served on each of the parties no later than the date~~
15 ~~of filing. In the event that the parties are so numerous that this~~
16 ~~requirement is onerous, the Commission on motion may limit the~~
17 ~~number of copies to be served. Service by mail shall be completed~~
18 ~~upon mailing.~~

19 ~~(3) Method and Proof of Service.~~

20 ~~(a) When service is required or permitted to be made upon a~~
21 ~~party represented by an attorney, service shall be made upon the~~
22 ~~attorney unless service upon the party is ordered by the~~
23 ~~Commission. Service on the attorney or party shall be made by hand~~
24 ~~delivery or by mail to the last known address. Delivery of a copy~~
25 ~~within this rule shall mean handing it to the attorney or to the~~

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2 ~~party, or leaving it at the party's or attorney's usual office with~~
3 ~~the clerk or other person in charge, or if there is no one in~~
4 ~~charge, leaving it in a conspicuous place within the office, or if~~
5 ~~the office is closed, leaving it at the party's or attorney's usual~~
6 ~~place of abode with some person of the family above fifteen years~~
7 ~~of age and informing that person of the contents.~~

8 ~~— (b) When an attorney or a party certifies in substance:~~

9 ~~"I certify that a copy hereof has been furnished to (here insert~~
10 ~~name or names) by (delivery) (mail) this _____ day of _____,~~

11 ~~19—,~~

12 _____

13 ~~Signature^a~~

14 ~~the certificate shall be taken as prima facie evidence of service~~
15 ~~in compliance with this rule.~~

16 ~~— (4) Additional Time after Service by Mail. Whenever a party~~
17 ~~is required or permitted to do an act within a prescribed time~~
18 ~~after service of a document, and the document is served by mail,~~
19 ~~five days shall be added to the prescribed time, except that~~
20 ~~responses to notices pursuant to Sections 350.113, 364.335, and~~
21 ~~367.045, F.S., shall be filed within the time specified by statute.~~

22 ~~Any action required by a Commission order shall be completed on the~~
23 ~~specified date, if any, in the order.~~

24 ~~— (5) Computation of Time. In computing any period of time~~
25 ~~prescribed or allowed by these rules, by order of a presiding~~

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2 ~~officer, or by any applicable statute, the day of the act from~~
3 ~~which the designated period of time begins to run shall not be~~
4 ~~included. The last day of the period shall be included unless it~~
5 ~~is a Saturday, Sunday or legal holiday in which event the period~~
6 ~~shall run until the end of the next day which is neither a~~
7 ~~Saturday, Sunday, or legal holiday. As used in these rules, legal~~
8 ~~holiday means those days designated in § 110.117, P.G., and any~~
9 ~~other day the Agency's offices are closed.~~

10 Specific Authority: 350.01(7), 350.127(2) ~~120.53~~ F.S.

11 Law Implemented: 120.569, 120.57 ~~120.53~~ F.S.

12 History--Formerly 25-2.58, Amended 10-21-81, Formerly 25-22.28,
13 Amended 2-11-92, _____.

14 25-22.029 Point of Entry Into Proposed Agency Action Proceedings.

15 ~~(1) At any time subsequent to the initiation of a proceeding~~
16 ~~before the Commission, the Commission may give notice of proposed~~
17 ~~agency action. Proposed agency action shall be made upon a vote of~~
18 ~~the Commission, and may be reflected in the form of an order or a~~
19 ~~notice of intended action.~~

20 ~~(1)(2)~~ After agenda conference, the Division of Records and
21 Reporting shall issue written notice of the proposed agency action
22 (PAA), advising all parties of record that they have 21 days after
23 issuance of the notice in which to file a request for a § 120.569
24 or 120.57 hearing. ~~For good cause shown the Commission may provide~~
25 ~~that The time for requesting a § 120.569 or 120.57 hearing shall~~

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2 be 14 days from issuance of the notice for PAA orders establishing
3 a price index pursuant to section 367.081(4)(a), F.S. The
4 Commission will ~~may also serve copies of its notice on interested~~
5 ~~persons and may~~ require a utility to serve written notice of the
6 PAA on its customers if the Commission finds that it is necessary
7 in order to afford adequate notice.

8 ~~(2)(3)~~ The Commission ~~may publish notice of its proposed~~
9 ~~agency action in the Florida Administrative Weekly or newspapers of~~
10 ~~general circulation in the area affected by its action and may~~ will
11 require a utility to publish notice of the decision in newspapers
12 of general circulation in its service area if the Commission finds
13 that it is necessary in order to afford adequate notice. Any such
14 publication may be used in establishing the date of receiving
15 notice.

16 ~~(3)(4)~~ One whose substantial interests may or will be
17 affected by the Commission's proposed action may file a petition
18 for a § 120.569 or 120.57 hearing, in the form provided by Rule 28-
19 106.201, F.A.C. 25-22.036. Any such petition shall be filed within
20 the time stated in the notice issued pursuant to subsection ~~(1)(2)~~
21 of this rule. ~~However, when a person has not been served notice of~~
22 ~~the decision and notice has been published, such person may file a~~
23 ~~petition within 14 days after publication of the notice.~~

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2 ~~(5) Any person who receives notice and who fails to file a~~
3 ~~timely request for a § 120.57 hearing shall have waived his or her~~
4 ~~right to request a hearing on the decision.~~

5 ~~— (6) In the absence of a timely request for a § 120.57~~
6 ~~hearing, and unless otherwise provided by a Commission order, the~~
7 ~~proposed action shall become effective upon the expiration of the~~
8 ~~time within which to request a hearing.~~

9 Specific Authority: 350.01(7), 350.127(2) ~~120.53~~ F.S.

10 Law Implemented: 120.569, 120.57, 364.05, 366.06, 367.081,
11 367.081(4)(a), 367.0817 ~~120.53~~ F.S.

12 History--New 12-21-81, Formerly 25-22.29, Amended 7-8-92,
13 _____.

14 25-22.034 Discovery.

15 ~~Parties may obtain discovery through the means and in the~~
16 ~~manner provided in Rules 1.200 through 1.400, Florida Rules of~~
17 ~~Civil Procedure. The presiding officer may issue appropriate~~
18 ~~orders to effectuate the purposes of discovery and to prevent delay~~
19 ~~and may impose appropriate sanctions under Rule 1.300, Florida~~
20 ~~Rules of Civil Procedure, except that such sanctions may not~~
21 ~~include contempt or the award of expenses unless specifically~~
22 ~~authorized by statute. Sanctions may also include dismissal under~~
23 ~~Rule 25-22.042.~~

24 Specific Authority: 120.53 F.S.

25 Law Implemented: 120.53. F.S.

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2 History--New 12-21-81, Formerly 25-22.34, Repealed _____ .
3 25-22.035 Miscellaneous Matters.

4 ~~(1) Presiding Officer: As used herein "presiding officer"~~
5 ~~means the Commission or a member thereof, who conducts a hearing on~~
6 ~~behalf of the Commission or a Hearing Officer assigned by the~~
7 ~~Division of Administrative Hearings, or any other person authorized~~
8 ~~to conduct administrative hearings. Unless good cause is shown,~~
9 ~~all motions for disqualification of a presiding officer shall be~~
10 ~~made at least five days prior to the date scheduled for the final~~
11 ~~hearing.~~

12 ~~(2) Consolidation: If there are separate matters before the~~
13 ~~presiding officer which involve similar issues of law or fact, or~~
14 ~~identical parties, the matters may be consolidated if it appears~~
15 ~~that consolidation would promote the just, speedy, and inexpensive~~
16 ~~resolution of the proceedings, and would not unduly prejudice the~~
17 ~~rights of a party. Any party to a proceeding may request that it~~
18 ~~be consolidated with other proceedings, or the presiding officer~~
19 ~~may on his or her own initiative order separate proceedings to be~~
20 ~~consolidated.~~

21 ~~(3) Procedure: Generally, the Florida Rules of Civil~~
22 ~~Procedure shall govern in proceedings before the Commission under~~
23 ~~this part, except that the provisions of these rules supercede the~~
24 ~~Florida Rules of Civil Procedure where conflict arises between the~~
25 ~~two.~~

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2 Specific Authority: 120.53 F.S.

3 Law Implemented: 120.53 F.S.

4 History--New 12-21-81, Formerly 25-22.35, 25-22.035, Repealed

5 _____
6 25-22.035 Assignment of Formal Proceedings.

7 ~~(1) Formal Proceedings may be assigned by the Chairman to~~
8 ~~panels of two, three or five Commissioners or to a DOAH Hearing~~
9 ~~Officer or individual Commissioner for hearings as provided in~~
10 ~~Section 350.01, Florida Statutes.~~

11 ~~— (a) The assignment of proceedings shall be accomplished at~~
12 ~~the earliest practicable time but not later than 45 days after a~~
13 ~~case is docketed in any event.~~

14 ~~— (b) Assignment of cases to panels of two or three~~
15 ~~Commissioners shall be done randomly, unless the Chairman~~
16 ~~determines otherwise for good cause shown in a particular case.~~

17 ~~— (c) If a Commissioner becomes unavailable after assignment,~~
18 ~~he shall notify the Chairman, who shall make another assignment as~~
19 ~~soon as practicable.~~

20 ~~— (2) When a case is assigned for hearing to a panel of~~
21 ~~Commissioners, the hearing and deciding panels shall be identical.~~
22 ~~If a case is assigned to a DOAH Hearing Officer or individual~~
23 ~~Commissioner for a hearing, the case shall be assigned to the full~~
24 ~~Commission for decision.~~

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2 ~~--- (6) Assignment of a proceeding to a panel does not preclude~~
3 ~~delegation of prehearing conferences or similar procedural matters~~
4 ~~to a single member of the panel.~~

5 Specific Authority: 120.53, F.S.

6 Law Implemented: 120.53, 120.57(1)(a), 350.01, 350.125, F.S.

7 History: Transferred from 25-2.501 and Amended 12/21/81, 9/20/83,
8 formerly 25-22.355, Repealed _____.

9 Subpart B Prehearing Procedures

10 25-22.036 Initiation of Formal Proceedings.

11 ~~(1) Applicability. This section shall apply to all~~
12 ~~120.57(1) and (2) hearings including a hearing requested by a~~
13 ~~substantially affected person subsequent to proposed agency action.~~
14 ~~This rule shall not apply to the extent that a proceeding is~~
15 ~~governed by rules or statutes that prescribe alternative~~
16 ~~procedures.~~

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

22 (1)(3) Application. An application is appropriate when a
23 person seeks authority from the Commission to engage in an activity
24 subject to Commission jurisdiction.

25 ~~(4) Petition. A petition is appropriate when:~~

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

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

9 (2)(5) Complaints. A complaint is appropriate when a
10 person complains of an act or omission by a person subject to
11 Commission jurisdiction which affects the complainant's substantial
12 interests and which is in violation of a statute enforced by the
13 Commission, or of any Commission rule or order.

14 (3)(6) Orders and Notices. Upon its own motion, the
15 Commission may issue an order or notice initiating a proceeding.
16 Such order or notice shall be served upon all persons named
17 therein. The Commission may also transmit notice of its action to
18 other persons requesting such notice, and may publish such notice
19 in appropriate newspapers of general circulation and the Florida
20 Administrative Weekly.

21 (4)(7) Form and Content.

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

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

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- ~~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.~~

(a)~~(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.

(b)~~(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.

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

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

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

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

21 ~~(9) Disposition.~~

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

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2 ~~1. Deny the petition if it does not adequately state a~~
3 ~~substantial interest in the Commission determination or~~
4 ~~if it is untimely;~~

5 ~~2. Issue notice of proposed agency action where a rule or~~
6 ~~statute does not mandate a hearing as a matter of course,~~
7 ~~and after the time for responsive pleadings has passed;~~

8 ~~3. Set the matter for hearing before the Commission, or~~
9 ~~member thereof, or request that a hearing officer from~~
10 ~~the Division of Administrative Hearings be assigned to~~
11 ~~conduct the hearing. The assignment of a matter for~~
12 ~~hearing shall be pursuant to Rule 25-22.0355;~~

13 ~~4. Dispose of the matter as provided in 5-120.57(2).~~

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

16 ~~1. Deny the petition if it does not adequately state a~~
17 ~~substantial interest in the Commission determination or~~
18 ~~if it is untimely.~~

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

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

24 ~~(d) If the Commission elects to request that a Hearing~~
25 ~~Officer of the Division of Administrative Hearings be assigned to~~

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2 ~~conduct the hearing, the Commission shall forward the initial~~
3 ~~pleading, and all materials filed with the Commission, to the~~
4 ~~Division of Administrative Hearings, and shall notify all parties~~
5 ~~of its action.~~

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

11 Specific Authority: 350.01(7), 350.127(2) ~~120.53~~ F.S.

12 Law Implemented: 120.569, 120.57, 364.035, 364.05, 364.057,
13 364.335, 364.337, 366.04, 366.06, 366.071, 366.076, 366.8255,
14 367.031, 367.045, 367.071, 367.081, 367.0814, 367.0817, 367.082,
15 367.0822, 367.091, 367.101, 367.171. ~~120.53~~ F.S.

16 History--New 12-21-81, Formerly 25-22.36, Amended _____
17 25-22.037 Answers and Motions.

18 ~~(1) Answer. A respondent or intervenor may file an answer~~
19 ~~within twenty (20) days of service of the petition. An answer to an~~
20 ~~order or notice by the Commission which asserts a violation of a~~
21 ~~statute, rule or order, or initiating a formal proceeding, may be~~
22 ~~filed within the time stated in the order or notice, or in the~~
23 ~~absence of a stated time, within twenty (20) days of issuance of~~
24 ~~the order or notice.~~

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~~struck through~~ type are deletions from existing law.

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2 ~~--- (2) Motions. Motions may be filed in opposition to the~~
3 ~~proceeding, or for other purposes during the proceeding.~~

4 ~~--- (a) Motions in opposition to an order, notice, complaint or~~
5 ~~petition, which may be filed by any party, include motions to~~
6 ~~dismiss, to strike, and for a more definite statement. Such motions~~
7 ~~shall be filed within the time provided for filing an answer. In~~
8 ~~the event such a motion is denied, an answer or other responsive~~
9 ~~pleading may be filed within 10 days after issuance of an order~~
10 ~~denying the motion. Any ruling on such a motion by a presiding~~
11 ~~officer other than the Commission shall be incorporated in a~~
12 ~~recommended order, and will be finally disposed of only by the~~
13 ~~Commission.~~

14 ~~--- (b) All motions shall be in writing unless made on the record~~
15 ~~during a hearing, and shall fully state the action requested and~~
16 ~~the grounds relied upon. In proceedings before the Commission, the~~
17 ~~original written motion shall be filed with the Division of Records~~
18 ~~and Reporting. In proceedings before the Division of Administrative~~
19 ~~Hearings, the original written motion shall be filed with the~~
20 ~~presiding officer. The presiding officer shall conduct such~~
21 ~~proceedings and make such orders as are deemed necessary to dispose~~
22 ~~of issues raised by motions. Every written motion may be~~
23 ~~accompanied by, or included in, a written memorandum stating the~~
24 ~~grounds upon which the motion is based. Other parties to a~~

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2 ~~proceeding may, within seven (7) days after service of a written~~
3 ~~motion, file written memoranda in opposition.~~

4 ~~—— (3) Waiver. Except in cases where a default would occur, the~~
5 ~~failure of a party to file a timely answer or motion in response to~~
6 ~~an order, notice, or other initial pleading shall constitute an~~
7 ~~admission of all facts set forth in the order, notice or initial~~
8 ~~pleading.~~

9 ~~—— (4) Default. Where an order of initial pleading has been~~
10 ~~served on a party, and such order or initial pleading seeks a~~
11 ~~penalty or other specific relief against a person subject to~~
12 ~~Commission jurisdiction, failure to file a timely answer or motion~~
13 ~~in response thereto shall constitute a default. The Division of~~
14 ~~Records and Reporting, upon determining that a default has~~
15 ~~occurred, shall so indicate in the docket file, and shall return~~
16 ~~all papers filed by the defaulting party, except those seeking to~~
17 ~~set aside the default. A default will be set aside only upon a~~
18 ~~showing of a failure to serve the order or initial pleading, fraud,~~
19 ~~or lack of subject matter jurisdiction or other good cause as~~
20 ~~determined by the Commission.~~

21 Specific Authority: 120.53 F.S.

22 Law Implemented: 120.53 F.S.

23 History--New 12-21-81, Formerly 25-22.37, Repealed _____.

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1
2 25-22.0375 Pleadings.

3 ~~(1) Pleadings shall substantially conform to the Florida~~
4 ~~Rules of Civil Procedure as to content, form, size, signatures, and~~
5 ~~certifications.~~

6 ~~(2) Pleadings shall refer to the docket number assigned by~~
7 ~~the Division of Records and Reporting.~~

8 ~~(3) Pleadings shall be served on all parties and the original~~
9 ~~and seven copies of all pleadings shall be submitted to the~~
10 ~~Division of Records and Reporting. However, initial pleadings for~~
11 ~~increases in rates, except rate increases by water and wastewater~~
12 ~~utilities, shall be filed with twenty (20) copies. The requirement~~
13 ~~of twenty (20) copies shall apply to all exhibits appended to the~~
14 ~~original petition, prepared testimony and exhibits, briefs and~~
15 ~~other supplemental data requested by the Commission.~~

16 Specific Authority: 120.53 F.S.

17 Law Implemented: 120.53 F.S.

18 History--New 12-21-81, Formerly 25-22.375, Repealed _____.

19 25-22.038 Prehearing Officer; Prehearing Statement; Prehearing
20 Conferences; and Prehearing Order.

21 ~~(1) Prehearing Officer. For the purpose of this chapter, the~~
22 ~~words "prehearing officer" shall refer to a member of a commission~~
23 ~~panel assigned to the case who has been designated by the chairman~~
24 ~~as a prehearing officer. When the commissioner designated as the~~
25 ~~prehearing officer becomes unavailable, the following persons may~~

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2 ~~act as prehearing officer in the following order of availability:~~
3 ~~any member of the panel assigned to the proceeding, in order of~~
4 ~~seniority, or the commission chairman. A commissioner acting as~~
5 ~~prehearing officer may, in his or her discretion, refer any matter~~
6 ~~to the panel assigned to the case for a decision.~~

7 ~~—— (2) Prehearing Statement. A prehearing officer may issue an~~
8 ~~order requiring each party to file a prehearing statement. The~~
9 ~~order shall provide a date by which time the prehearing statement~~
10 ~~is due and shall further state that the failure of a party to file~~
11 ~~a prehearing statement shall be a waiver of any issues not raised~~
12 ~~by other parties or by the Commission, as well as the ability to~~
13 ~~present testimony in favor of his or her position. An order~~
14 ~~requiring a prehearing statement may address or rule upon any~~
15 ~~matters which may aid in the orderly disposition of the proceeding.~~
16 ~~In an order requiring a prehearing statement, the prehearing~~
17 ~~officer may require each party:~~

18 ~~—— (a) to identify all known witnesses that may be called and~~
19 ~~indicate the subject matter of their testimony;~~

20 ~~—— (b) to identify all known exhibits, identify their contents,~~
21 ~~and indicate whether they may be identified on a composite basis;~~

22 ~~—— (c) to provide a statement of the party's basic position in~~
23 ~~the proceeding;~~

24 ~~—— (d) to provide a statement of each question of fact the party~~
25 ~~considers at issue;~~

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2 ~~—— (e) to provide a statement of each question of law the party~~
3 ~~considers at issue;~~

4 ~~—— (f) to provide a statement of each policy question the party~~
5 ~~considers at issue;~~

6 ~~—— (g) to provide a statement of the party's position on each~~
7 ~~issue identified pursuant to paragraphs (d), (e), and (f);~~

8 ~~—— (h) to provide a statement of issues that have¹ been~~
9 ~~stipulated to by the parties;~~

10 ~~—— (i) to provide a statement of all pending motions or other~~
11 ~~matters the party seeks action upon;~~

12 ~~—— (j) to provide a statement as to any requirement set forth in~~
13 ~~the prehearing order that cannot be complied with, and the reasons~~
14 ~~therefore;~~

15 ~~—— (k) to include such other matters in the prehearing statement~~
16 ~~as will aid the Commission in achieving an orderly disposition of~~
17 ~~the proceeding;~~

18 ~~—— (3) Prehearing Conferences. A prehearing officer may require~~
19 ~~the parties to hold conferences, exchange information, and submit~~
20 ~~pleadings to aid in the organization of the proceeding and the~~
21 ~~efficient disposition of the merits of the proceeding;~~

22 ~~—— (a) Upon 7 days written notice, the prehearing officer may~~
23 ~~conduct or request the parties to hold one or more prehearing~~
24 ~~conferences for the purpose of hearing arguments on pending~~
25 ~~motions, clarifying and simplifying issues, discussing the~~

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1
2 ~~possibility of settlement of the issues, examining exhibits and~~
3 ~~documents, exchanging names and addresses, and resolving other~~
4 ~~procedural matters.~~

5 ~~— (b) Within a reasonable time after designation to the case,~~
6 ~~the prehearing officer shall set a date for a final prehearing~~
7 ~~conference and shall issue notice of the same.~~

8 ~~— (c) All parties and the prehearing officer shall attend the~~
9 ~~final prehearing conference, at which time the participants shall~~
10 ~~advise the prehearing officer as to the issues known to be in~~
11 ~~dispute, as well as the parties' positions thereon.~~

12 ~~— (4) Prehearing Order. The prehearing officer may issue a~~
13 ~~prehearing order which sets forth the issues in the case, as well~~
14 ~~as the positions of the parties, and addresses other matters as may~~
15 ~~aid in the conduct of the hearing and the efficient and fair~~
16 ~~disposition of the proceeding. Issues raising primarily questions~~
17 ~~of fact shall be stated separately from issues raising solely legal~~
18 ~~questions.~~

19 ~~— (a) The prehearing order shall control the conduct of the~~
20 ~~parties in the case to the extent the matter is addressed in the~~
21 ~~order. Except for good cause, an objection to any aspect of the~~
22 ~~prehearing order shall be raised at the start of or prior to the~~
23 ~~hearing.~~

24 ~~— (b) When an order has been issued that requires prehearing~~
25 ~~statements to list issues and positions, the prehearing officer has~~

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1
2 ~~conducted a final prehearing conference wherein issues and~~
3 ~~positions were discussed, and a prehearing order has been issued~~
4 ~~which sets forth the issues in the case and the parties' positions~~
5 ~~thereon, the following shall apply:~~

6 ~~1. Any party who failed to attend a final prehearing~~
7 ~~conference, unless excused by the prehearing officer,~~
8 ~~will have waived all issues and positions raised in his~~
9 ~~or her prehearing statement;~~

10 ~~2. Any issue not raised by a party prior to the issuance of~~
11 ~~a prehearing order shall be waived by that party, except~~
12 ~~for good cause shown. A party seeking to raise a new~~
13 ~~issue after the issuance of the prehearing order shall~~
14 ~~demonstrate that he or she was unable to identify the~~
15 ~~issue because of the complexity of the matter; discovery~~
16 ~~or other prehearing procedures were not adequate to fully~~
17 ~~develop the issues; due diligence was exercised to obtain~~
18 ~~facts touching on the issue; information obtained~~
19 ~~subsequent to the issuance of the prehearing order was~~
20 ~~not previously available to enable the party to identify~~
21 ~~the issue; and introduction of the issue could not be to~~
22 ~~the prejudice or surprise of any party. Specific~~
23 ~~reference shall be made to the information received, and~~
24 ~~how it enabled the party to identify the issue;~~

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2 ~~3. Unless a matter is not at issue for that party, a party~~
3 ~~shall diligently endeavor in good faith to take a~~
4 ~~position on each issue prior to issuance of the~~
5 ~~prehearing order. When a party is unable to take a~~
6 ~~position on an issue, he or she shall bring that fact to~~
7 ~~the attention of the prehearing officer. If the~~
8 ~~prehearing officer finds that the party has acted~~
9 ~~diligently and in good faith to take a position, and~~
10 ~~further finds that the party's failure to take a position~~
11 ~~will not prejudice other parties or confuse the~~
12 ~~proceedings, the party may maintain "no position at this~~
13 ~~time" prior to hearing and thereafter identify his or her~~
14 ~~position in a post-hearing statement of issues. In the~~
15 ~~absence of such a finding by the prehearing officer, the~~
16 ~~party shall have waived the entire issue.~~

17 ~~(c) When an issue and position have been properly identified~~
18 ~~any party may adopt that issue and position in his or her~~
19 ~~post-hearing statement.~~

20 Specific Authority: 120.53 F.S.

21 Law Implemented: 120.53 F.S.

22 History--Transferred from 25-2.68 and Amended 12/21/81, formerly
23 25-22.38, Amended 9/3/95, Repealed _____.

24 25-22.0405 Notices of ~~Public~~ Hearings.
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2 (1) ~~The provisions of this rule shall apply to all public~~
3 ~~hearings conducted by the Commission, except rulemaking hearings~~
4 ~~held pursuant to Rules 25-22.010 through 25-22.018, F.A.C.~~

5 (2) ~~Notice of such public hearings shall be given by the~~
6 ~~Commission to the clerk of the board of county commissioners of~~
7 ~~each county affected, the chief executive officer of each~~
8 ~~municipality to the area affected, all parties of record and all~~
9 ~~persons who have requested notice of such proceedings.~~

10 (3) ~~A summary of the subject matter and notice of hearing~~
11 ~~shall be published by the Commission in the Florida Administrative~~
12 ~~Weekly. The summary shall be drawn and notice given as required by~~
13 ~~the provisions of the statute under which relief is sought, if~~
14 ~~applicable, but shall not be published less than 14 days prior to~~
15 ~~the hearing.~~

16 (4) The Commission will ~~may~~ require any public utility in a
17 such proceedings to publish additional notices of hearing in
18 newspapers of general circulation in the area affected and to give
19 notice to its customers by mail, if ~~as may be deemed reasonably~~
20 ~~necessary by~~ the Commission finds that it is necessary in order to
21 afford adequate notice to the customers of the utility.

22 (5) ~~When the Commission determines that the health, safety,~~
23 ~~or welfare of the public requires an emergency hearing, notice may~~
24 ~~be accomplished by giving notice to those parties listed in~~
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2 ~~subsection (2) not less than 48 hours prior to the time scheduled~~
3 ~~for the hearing.~~

4 Specific Authority: 350.127(2), 366.05, 367.121(1)(f) F.S.

5 Law Implemented: 120.569, 120.57, 364.03, 364.035(1), 364.07,
6 364.14, 364.15, 364.16, 364.27, 366.04, 366.05, 367.081, 367.111
7 F.S.

8 History--New 1-27-72, Formerly 25-2.981, Amended 12-21-81,
9 9-27-83,_____.

10 25-22.0406 Notice and Public Information on General Rate Increase
11 Requests by Electric, Gas and Telephone Companies.

12 (1) The provisions of this rule shall be applicable to all
13 requests for general rate increases by electric, gas and telephone
14 companies subject to the Commission's jurisdiction.

15 (2) Upon filing a petition for a general rate increase, the
16 utility shall mail a copy of the petition to the chief executive
17 officer of the governing body of each municipality and county
18 within the service area affected.

19 (3)(a) Within 15 days after it has been notified by the
20 Commission that the Minimum Filing Requirements (MFRs) have been
21 met, the utility shall place a copy of the MFRs at its official
22 headquarters and at its business office in each municipality in
23 which service hearings were held in the last general rate case of
24 the utility. Within 15 days after the time schedule has been
25 mailed to the utility, copies of the MFRs shall be placed in the

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2 utility business office in each additional city in which service
3 hearings are to be held. Upon customer request a copy of the MFRs
4 shall be placed in a utility business office not located in a city
5 where a service hearing is to be held. The copies of the MFRs
6 shall be available for public inspection during the utility's
7 regular business hours.

8 (b) In addition to the locations listed above, if the
9 Commission determines that the locations listed above will not
10 provide adequate access, the Commission will ~~may~~ require that
11 copies of the MFRs be placed at other specified locations.

12 (4) (a) Within 15 days after the time schedule for the case
13 has been mailed to the utility, the utility shall prepare and
14 distribute a synopsis of the rate request. The synopsis shall be
15 approved by the Commission or its staff prior to distribution and
16 shall include:

17 1. A summary of the section of the MFRs showing a comparison
18 of the present and proposed rates for major services;

19 2. A statement of the anticipated major issues involved in
20 the rate case;

21 3. A copy of the executive summary filed with the MFRs;

22 4. A description of the ratemaking process and the time
23 schedule established for the rate case; and

24 5. The locations at which complete MFRs are available.
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2 (b) Copies of the synopsis shall be distributed to the same
3 locations as required for the MFRs, to the main county library
4 within or most convenient to the service area and to the chief
5 executive officer of each county and municipality within the
6 service area affected.

7 (5) Within 30 days after the rate case time schedule has been
8 mailed to the utility, the utility shall begin sending a notice
9 approved by the Commission or its staff to its customers
10 containing:

11 (a) A statement that the utility has applied for a rate
12 increase and the general reasons for the request;

13 (b) The locations at which copies of the MFRs and synopsis
14 are available;

15 (c) The time schedule established for the case, and the
16 dates, times and locations of any hearings that have been
17 scheduled; and

18 (d) A comparison of current rates and service charges and the
19 proposed new rates and service charges.

20 1. Such notice shall be completed at least 10 days prior to
21 the first scheduled service hearing.

22 (6) At least 7 days and not more than 20 days prior to each
23 service hearing, the utility shall have published in a newspaper of
24 general circulation in the area in which the hearing is to be held
25 a display advertisement stating the date, time, location and

1
2 within the service areas included in the rate request. Each copy of
3 the petition shall be accompanied by a statement that a copy of the
4 minimum filing requirements (MFRs) when accepted by the Commission
5 can be obtained from the petitioner upon request.

6 (3) Within 30 days after the official date of filing
7 established by the Commission, the utility shall place a copy of
8 the petition and the MFRs at its official headquarters and at any
9 business offices it has in the service areas included in the rate
10 request. Such copies shall be available for public inspection
11 during the utility's regular business hours. If the utility does
12 not have a business office in a service area included in its rate
13 request, the utility shall place a copy of the petition and the
14 MFRs at the main county library, the local community center or
15 other appropriate location which is within or most convenient to
16 the service area and which is willing to accept and provide public
17 access to the copies. If the Commission determines that these
18 locations will not provide adequate access, ~~t~~The Commission will
19 may require that copies of the petition and MFRs be placed at other
20 specified locations.

21 (4) (a) Within 30 days after the official date of filing
22 established by the Commission, the utility shall place a copy of
23 its rate case synopsis at all locations where copies of the
24 petition and MFRs were placed.

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2 (b) Within 30 days after the official date of filing
3 established by the Commission, the utility shall mail a copy of its
4 rate case synopsis to the chief executive officer of the governing
5 body of each municipality and county within the service areas
6 included in the rate request.

7 (c) The utility's rate case synopsis shall be approved by the
8 Commission staff prior to distribution and shall include the
9 following:

10 1. A summary of the section of the MFRs showing a comparison
11 of the present and proposed rates and charges;

12 2. A statement of the general reasons for the rate request;

13 3. A statement of any anticipated major issues involved in
14 the rate case;

15 4. A description of the ratemaking process and the time
16 schedule established for the rate case; and

17 5. The locations where complete MFRs are available.

18 (5) (a) Within 50 days after the official date of filing
19 established by the Commission, the utility shall provide, in
20 writing, an initial customer notice to all customers within the
21 service areas included in the rate request and to all persons in
22 the same service areas who have filed a written request for service
23 or who have been provided a written estimate for service within the
24 12 calendar months prior to the month the petition is filed.

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2 (b) The initial customer notice shall be approved by
3 Commission staff prior to distribution and shall include the
4 following:

5 1. The date the notice was issued;

6 2. A statement that the utility has filed a rate request
7 with the Commission and a statement of the general reasons for the
8 request;

9 3. A statement of the locations where copies of the MFRs,
10 petition, and rate case synopsis are available for public
11 inspection and the hours and days when inspection may be made;

12 4. The time schedule established for the case, including the
13 dates, times, and locations of any hearings scheduled;

14 5. A comparison of current rates and charges and the
15 proposed new rates and charges;

16 6. The utility's address, telephone number, and business
17 hours;

18 7. A statement that written comments regarding utility
19 service or the proposed rates and charges should be addressed to
20 the Director, Division of Records and Reporting, 2540 Shumard Oak
21 Boulevard, Tallahassee, Florida 32399-0870, and that such comments
22 should identify the docket number assigned to the proceeding;

23 8. A statement that complaints regarding service may be made
24 to the Commission's Division of Consumer Affairs at the following
25 toll-free number: 1-800-342-3552; and

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2 9. If the utility has not requested a change in its service
3 availability charges as part of its rate request, a statement that
4 the Commission will be reviewing the utility's service availability
5 charges in the pending rate case and that the Commission may adjust
6 those charges.

7 10. The docket number assigned by the Commission's Division
8 of Records and Reporting.

9 (c) The initial customer notice shall be mailed to the
10 out-of-town address of all customers who have provided the utility
11 with an out-of-town address.

12 (6) (a) No less than 14 days and no more than 30 days prior
13 to the date of each service hearing, in those cases where the
14 Commission has scheduled a service hearing, the utility shall
15 provide written notice of the date, time, location, and purpose of
16 the service hearing to all customers within service areas
17 designated by the prehearing officer or the Commission staff. The
18 notice shall be approved by Commission staff prior to distribution.
19 The notice shall be mailed to the out-of-town address of all
20 customers who have provided the utility with an out-of-town
21 address.

22 (b) No less than 14 days and no more than 30 days prior to
23 the date of the hearing, in all cases, including those in which the
24 Commission has scheduled a service hearing, the utility shall
25 provide written notice of the date, time, location, and purpose of

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2 the hearing to all customers within the service areas included in
3 the rate request. The notice shall be approved by Commission staff
4 prior to distribution. The notice shall be mailed to the
5 out-of-town address of all customers who have provided the utility
6 with an out-of-town address.

7 (7) No less than 14 days and no more than 30 days prior to
8 the date of each hearing held in or near a utility service area
9 included in the rate request, the utility shall have published in
10 a newspaper of general circulation in the area in which such
11 hearing is to be held a display advertisement stating the date,
12 time, location, and purpose of the hearing. The notice shall be
13 approved by Commission staff prior to publication.

14 (8) When a utility files for a petition for a general rate
15 increase and requests that its case be processed as proposed agency
16 action in accordance with section 367.081(8), F.S., the utility
17 shall comply with the requirements of sections (2), (3), (4), and
18 (5) of this rule.

19 (a) No less than 14 days and no more than 30 days prior to
20 the date of a customer meeting conducted by the Commission staff,
21 the utility shall provide written notice of the date, time,
22 location, and purpose of the customer meeting to all customers
23 within service areas designated by the Commission staff. The notice
24 shall be approved by Commission staff prior to distribution. The
25

1
2 notice shall be mailed to the out-of-town address of all customers
3 who have provided the utility with an out-of-town address.

4 (b) If the proposed agency action order issued in the case is
5 protested and any hearings are subsequently held, the utility shall
6 give notice in accordance with subsections (6) and (7) above.

7 (9) When a utility applies for a staff-assisted rate case in
8 accordance with section 367.0814, F.S., and Rule 25-30.455, F.A.C.,
9 and staff-assistance is granted, the requirements of sections (2),
10 (3), (4), and (5) of this rule shall not apply.

11 (a) Upon receipt of the staff reports, the utility shall
12 place two copies of its application for staff-assistance and the
13 staff reports at any business offices it has in its service area.
14 Such copies shall be available for public inspection during the
15 utility's regular business hours. If the utility does not have a
16 business office in its service area, the utility shall place two
17 copies of its application and the staff reports at the main county
18 library, the local community center or other appropriate location
19 that is within or most convenient to the service area and that is
20 willing to accept and provide public access to the copies.

21 (b) No less than 14 days and no more than 30 days prior to
22 the date of a customer meeting conducted by the Commission staff,
23 the utility shall provide, in writing, a customer meeting notice to
24 all customers within its service area and to all persons in the
25 same service areas who have filed a written request for service or

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who have been provided a written estimate for service within the 12 calendar months prior to the month the petition is filed.

(c) The customer meeting notice shall be approved by Commission staff prior to distribution and shall include the following:

1. The date the notice was issued;
2. The time, date, location, and purpose of the customer meeting;
3. A statement that the utility has applied for a staff-assisted rate case and the general reasons for doing so;
4. A statement of the location where copies of the application and staff reports are available for public inspection and the times during which inspection may be made;
5. A comparison of current rates and charges and the proposed new rates and charges;
6. The utility's address, telephone number, and business hours;
7. A statement that written comments regarding utility service or the proposed rates and charges should be addressed to the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, and that such comments should identify the docket number assigned to the proceeding;

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2 8. A statement that complaints regarding service may be made
3 to the Commission's Division of Consumer Affairs at the following
4 toll-free number: 1-800-342-3552;

5 9. A statement that the Commission will be reviewing the
6 utility's service availability charges in the pending case and that
7 the Commission may adjust those charges;

8 10. The docket number assigned by the Commission's Division
9 of Records and Reporting.

10 (d) The customer meeting notice shall be mailed to the
11 out-of-town address of all customers who have provided the utility
12 with an out-of-town address.

13 (e) If the proposed agency action order issued in the case is
14 protested and any hearings are subsequently held, the utility shall
15 give notice in accordance with subsections (6) and (7) above.

16 (10) After the Commission issues an order granting or denying
17 a rate change, the utility shall notify its customers of the order
18 and any revised rates. The customer notification shall be approved
19 by Commission staff and be distributed no later than with the first
20 bill containing any revised rates.

21 Specific Authority: 350.127(2), 367.121(1)(f) F.S.

22 Law Implemented: 120.569, 120.57, 367.081(2)(a), 367.0814(1),
23 367.0817, 367.091, 367.121 (1)(a) F.S.

24 History--New 5-27-93, Amended
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2 25-22.041 Continuances. ;

3 ~~The presiding officer may grant a continuance of a hearing for~~
4 ~~good cause shown or upon stipulation of all parties. Requests for~~
5 ~~continuance shall be made in writing or upon oral motion at the~~
6 ~~hearing. Except in cases of emergency, requests for continuance~~
7 ~~must be made at least five (5) days prior to the date noticed for~~
8 ~~the hearing.~~

9 Specific Authority: 120.53 F.S.

10 Law Implemented: 120.53 F.S.

11 History--New 12-21-81, Formerly 25-22.41, Repealed _____.

12 25-22.042 Dismissal.

13 ~~The failure or refusal of a party to comply with any lawful~~
14 ~~order may be cause for dismissing the party from the proceeding. If~~
15 ~~a dismissal is entered against the party who has the burden of~~
16 ~~proof, the proceeding will be dismissed. If a dismissal is entered~~
17 ~~against a party who does not have the burden of proof, the party~~
18 ~~shall not be allowed to participate in the proceeding as a party.~~

19 Specific Authority: 120.53 F.S.

20 Law Implemented: 120.53 F.S.

21 History--New 12-21-81, Formerly 25-22.42, Amended 7-11-96, Repealed

22 _____.

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2 Subpart C Conduct of Formal Hearings

3 25-22.045 Subpoenas.

4 ~~(1)~~ When the proceeding is before the Commission or member
5 thereof, subpoenas may be issued by the presiding officer or the
6 Division of Records and Reporting on subpoena forms supplied by the
7 Commission. When the proceeding is before an administrative law
8 judge ~~a hearing officer~~ of the Division of Administrative Hearings,
9 subpoenas may be issued by the Administrative Law Judge Hearing
10 Officer.

11 ~~(2) A party shall apply in writing for the issuance of~~
12 ~~subpoenas requiring the attendance of witnesses or production of~~
13 ~~records, files, and memoranda from any place in the state, at any~~
14 ~~designated place of hearing before the presiding officer, for the~~
15 ~~purpose of taking the testimony of such witness or inspection of~~
16 ~~documents. An application for the subpoena shall state the name~~
17 ~~and address of the witness for whom the subpoena is to be issued,~~
18 ~~and the time and place for the witness to appear.~~

19 ~~(3) Any party or person against whom a subpoena is directed~~
20 ~~may file a motion to quash or limit the subpoena with the agency~~
21 ~~having jurisdiction of the dispute. The motion shall set forth the~~
22 ~~grounds relied upon.~~

23 ~~(4) A subpoena may be served by any person authorized by law~~
24 ~~to serve process or by any person who is not a party and who is of~~
25 ~~majority age. Service shall be made by delivering a copy thereof to~~

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2 ~~to compensation at the rate provided under Section 112.061, F.S.~~

3 ~~This section shall not limit the fees of expert witnesses.~~

4 Specific Authority: 120.53 F.S.

5 Law Implemented: 120.53 F.S.

6 History--New 12/21/81, formerly 25-22.46, Repealed _____.

7 25-22.048 Evidence.

8 ~~(1) Oral evidence shall be taken only on oath or affirmation.~~

9 ~~(2) Each party shall have the right: to present evidence~~
10 ~~relevant to the issues; to cross examine opposing witnesses; to~~
11 ~~impeach any witness in accordance with § 90.608, F.S., regardless~~
12 ~~of which party first call that witness to testify; and to rebut the~~
13 ~~evidence presented against it.~~

14 ~~(3) Any relevant evidence shall be admitted if it is the sort~~
15 ~~of evidence which is normally admissible in civil trials in Florida~~
16 ~~or which reasonably prudent persons are accustomed to relying upon~~
17 ~~in the conduct of their affairs. Hearsay evidence may be used to~~
18 ~~supplement or explain other evidence, but shall not be sufficient~~
19 ~~in itself to support a finding unless it would be admissible over~~
20 ~~objection in civil actions. Irrelevant and unduly repetitious~~
21 ~~evidence may be excluded.~~

22 ~~(4)(a) Evidence may be submitted in the form of written~~
23 ~~testimony. Such testimony shall be typed on standard 8 1/2 x 11~~
24 ~~inch transcript quality paper, double spaced, with 25 numbered~~
25 ~~lines, and a sufficient left margin to allow for binding. A~~

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2 ~~presiding officer may require all parties to prefile testimony and~~
3 ~~shall provide reasonable notice to the parties of the date~~
4 ~~testimony shall be prefiled. This rule shall not limit the~~
5 ~~presentation of reports or written analyses, where reasonable.~~

6 ~~(b) Upon providing copies of written testimony to all parties~~
7 ~~of record, a witness may enter that testimony into the record as~~
8 ~~though read, at which time the witness shall become subject to~~
9 ~~cross-examination and his or her testimony shall become subject to~~
10 ~~evidentiary rules set out in subsection (3) of this rule.~~

11 Specific Authority: 120.53 F.S.

12 Law Implemented: 120.53 F.S.

13 History--New 12-21-81, Formerly 25-22.4^a, Repealed _____.

14 25-22.049 Recordation.

15 ~~The Commission shall have the responsibility of preserving the~~
16 ~~testimony at formal proceedings and hearings. Proceedings shall be~~
17 ~~reported by certified court reporter or by recording instruments.~~
18 ~~Any party to a hearing may, at its own expense, provide a certified~~
19 ~~court reporter if the Commission does not. If the Commission~~
20 ~~decides not to have the proceedings reported by a court reporter,~~
21 ~~it shall provide the parties with adequate notice of its decision.~~
22 ~~The presiding officer may provide a certified court reporter. At~~
23 ~~hearings during which the services of a court reporter have been~~
24 ~~retained any party who wishes a written transcript of the testimony~~
25 ~~shall order the same at its own expense. If a court reporter~~

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2 ~~records the proceedings, the recordation shall become the official~~
3 ~~transcript.~~

4 Specific Authority: 120.53 F.S.

5 Law Implemented: 120.53 F.S.

6 History--New 12-21-81, Formerly 25-22.49, Repealed _____.

7 Subpart D Post-hearing Procedures

8 25-22.056 Post-hearing Filings.

9 ~~(1) General Provisions.~~

10 ~~— (a) If a hearing under section 120.57, F.S., is conducted by~~
11 ~~a panel of two or more Commissioners or the full Commission, all~~
12 ~~parties may submit proposed findings of fact, conclusions of law,~~
13 ~~and legal briefs on the issues within a time designated by the~~
14 ~~presiding officer.~~

15 ~~— (b) If a hearing under section 120.57, F.S., is conducted by~~
16 ~~a Commissioner sitting as a hearing officer, all parties and staff~~
17 ~~may submit proposed findings of fact, conclusions of law, proposed~~
18 ~~recommended orders which shall include a statement of the issues,~~
19 ~~and exceptions to the proposed or recommended order, within the~~
20 ~~time and in the format designated by the hearing officer.~~

21 ~~— (c) A party who fails to state or reaffirm a position on an~~
22 ~~issue to the presiding officer or hearing officer at the~~
23 ~~appropriate time shall be deemed to have waived that issue or~~
24 ~~position.~~

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2 ~~(d) A party's proposed findings of fact, conclusions of law,~~
3 ~~statement of issues and positions, and brief shall together total~~
4 ~~no more than 60 pages and shall be filed at the same time. The~~
5 ~~hearing officer or, if the hearing has been conducted by a panel or~~
6 ~~the full Commission, the prehearing officer, may modify the page~~
7 ~~limit for good cause shown. Lettering shall be distinct and printed~~
8 ~~in type of no more than 10 characters per inch. The text must be~~
9 ~~double spaced with 1 inch margins except for quoted material which~~
10 ~~may be indented and single spaced.~~

11 ~~(e) Requests for oral argument shall be filed in accordance~~
12 ~~with Rule 25-22.058, F.A.C.~~

13 ~~(2) Proposed Findings of Fact. A party may submit proposed~~
14 ~~findings of fact. The hearing officer or Commissioners assigned to~~
15 ~~the proceeding will rule upon each finding of fact, as required by~~
16 ~~section 120.59(2), F.S., when filed in conformance with this rule.~~

17 ~~(a) Proposed findings of fact shall be entitled as such, and~~
18 ~~must be presented on a document separate from all other~~
19 ~~post-hearing documents.~~

20 ~~(b) Each proposed finding of fact shall be separately stated,~~
21 ~~numbered consecutively, and shall be a succinct statement not to~~
22 ~~exceed 3 sentences in length. Proposed findings of fact shall not~~
23 ~~contain mixed questions of fact and law. Each proposed finding of~~
24 ~~fact shall cite to the record, identifying the page and line of the~~
25 ~~transcript or exhibit that supports the particular finding. All~~

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2 ~~proposed findings of fact which relate to a particular issue shall~~
3 ~~be grouped together and shall identify the issue number to which~~
4 ~~they relate. Any written statement that is not clearly designated~~
5 ~~as a proposed finding of fact shall be considered to be legal~~
6 ~~argument rather than proposed finding of fact.~~

7 ~~— (3) Statement of Issues and Positions. In any proceeding~~
8 ~~where a prehearing order has been issued, and such prehearing order~~
9 ~~contains a statement of the issues as well as the positions of the~~
10 ~~parties thereon, all post hearing statements and other documents~~
11 ~~filed pursuant to this rule shall conform to the form and content~~
12 ~~of the statement of the issues and positions.~~

13 ~~— (a) Each party to a proceeding shall file a post hearing~~
14 ~~statement of issues and positions which shall include a summary of~~
15 ~~each position of no more than 50 words, set off with asterisks. If~~
16 ~~a party's position has not changed since the issuance of the~~
17 ~~prehearing order, the party's post hearing statement may simply~~
18 ~~restate the prehearing position; however, if the prehearing~~
19 ~~position is longer than 50 words it must be reduced to no more than~~
20 ~~50 words. The 50 word limit may be modified for good cause shown.~~
21 ~~In the event that a new issue is identified by a party in a~~
22 ~~post hearing statement, that new issue shall be clearly identified~~
23 ~~as such, and a statement of position thereon shall be included. Any~~
24 ~~issue or position not included in a post hearing statement shall be~~
25 ~~considered waived.~~

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2 ~~(b) A party is not required to file post hearing documents in~~
3 ~~addition to the post hearing statement, unless otherwise required~~
4 ~~by the presiding officer. If a brief is filed, each argument must~~
5 ~~be identified by the issue number to which it relates. In the event~~
6 ~~that a party fails to file a post hearing statement in conformance~~
7 ~~with (3)(a), and no other post hearing memorandum is filed which~~
8 ~~conforms to this rule, that party shall have waived all issues and~~
9 ~~may be dismissed from the proceeding.~~

10 ~~(4) Post hearing Filings When Hearing is Conducted by a~~
11 ~~Hearing Officer. If a hearing under section 120.57, F.G., is held~~
12 ~~before a Commissioner sitting as a hearing officer, the following~~
13 ~~provisions shall apply in addition to (1)(b) through (3) of this~~
14 ~~rule. Subsection (b) of the following provisions also applies when~~
15 ~~the hearing has been conducted by the Division of Administrative~~
16 ~~Hearings.~~

17 ~~(a) Recommended or Proposed Order. The hearing officer shall,~~
18 ~~within 30 days after the hearing or receipt of the hearing~~
19 ~~transcript, whichever is later, file a recommended or proposed~~
20 ~~order which shall include a caption, time and place of hearing,~~
21 ~~appearances entered at the hearing, statement of the issues,~~
22 ~~findings of fact and conclusions of law separately stated, and~~
23 ~~recommendation for final Commission action.~~

24 ~~(b) Exceptions. Parties and staff may file exceptions to the~~
25 ~~recommended or proposed order with the Division of Records and~~

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2 ~~Reporting within 14 days of service of the order, and shall serve~~
3 ~~copies of any such exceptions upon all parties of record and staff.~~
4 ~~Such exceptions shall fully set forth the error claimed and the~~
5 ~~basis in law and fact therefor, with exceptions to findings of fact~~
6 ~~supported by citations to the record. A party's failure to serve or~~
7 ~~file timely written exceptions shall constitute a waiver of any~~
8 ~~objections to the recommended or proposed order.~~

9 Specific Authority: 120.53 F.S.

10 Law Implemented: 120.53, 120.57, 120.58 F.S.

11 History--New 12-21-81, Formerly 25-22.56, Amended 3-23-93, Repealed

12 _____.

13 25-22.059 Final Orders.

14 ~~(1) If a hearing is conducted by the Commission, a final~~
15 ~~order shall be entered within ninety (90) days after the hearing or~~
16 ~~receipt of the hearing transcript, whichever is later. The final~~
17 ~~order shall include a caption, time and place of the hearing,~~
18 ~~appearances entered at the hearing, statement of the issues,~~
19 ~~findings of fact, conclusions of law, and statement of final~~
20 ~~Commission action.~~

21 ~~(2) If the final hearing has been conducted by other than the~~
22 ~~Commission, the Commission shall issue its final order within~~
23 ~~ninety (90) days of receipt of the recommended order. The~~
24 ~~recommended order shall be considered at a public meeting. This~~
25 ~~proceeding shall not be a de novo review, but shall be confined to~~

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~~the record submitted to the Commission together with the recommended order.~~

~~(3) If a party files exceptions to a recommended order or submits proposed findings of fact to the Commission, the final order shall include an explicit ruling on each exception and each proposed finding of fact, provided however, the Commission will not rule upon proposed findings of fact unless submitted in conformance with Rule 25-22.056(2). The Commission is not required to make explicit rulings on subordinate, cumulative, immaterial, or unnecessary proposed facts, and such proposed facts may be rejected in the final order by a statement that they are irrelevant or immaterial, or that competent substantial evidence supports the presiding officer's findings of facts which were contrary to those filed in the exceptions.~~

Specific Authority: 120.53 F.S.

Law Implemented: 120.53 F.S.

History--New 12-21-81, Formerly 25-22.59, Repealed _____.

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3 25-40.001 Exceptions to the Uniform Rules of Procedure. The
4 following provisions of the Commission's rules are exceptions to
5 the uniform rules of procedure:

<u>UNIFORM RULE</u>	<u>COMMISSION RULE THAT IS AN EXCEPTION</u>
<u>CHAPTER 28-102</u> <u>AGENDA AND SCHEDULING OF MEETINGS AND WORKSHOPS</u>	<u>25-22.0021</u> <u>Agenda Conference Participation.</u>
<u>28-102.001</u> <u>Notice of Public Meeting, Hearing, or Workshop.</u>	<u>25-22.001</u> <u>Notice of Meeting or Workshop.</u>
<u>28-102.002(2)</u> <u>Agenda of Meetings, Hearings, and Workshops.</u>	<u>25-22.002</u> <u>Agenda of Meetings.</u>
<u>CHAPTER 28-103</u> <u>RULEMAKING</u>	<u>25-22.017</u> <u>Rulemaking Proceeding -- Adoption.</u>

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<u>CHAPTER 28-106</u>	<u>25-22.006</u>
<u>DECISIONS DETERMINING</u>	<u>Confidential Information.</u>
<u>SUBSTANTIAL INTERESTS</u>	<u>25-22.0376</u>
	<u>Reconsideration of Non-Final</u>
	<u>Orders.</u>
	<u>25-22.0406(7) - (8)</u>
	<u>Notice and Public Information</u>
	<u>on General Rate Increase</u>
	<u>Requests by Electric, Gas and</u>
	<u>Telephone Companies.</u>
	<u>25-22.0407(8) and (10)</u>
	<u>Notice of and Public</u>
	<u>Information for General Rate</u>
	<u>Increase Requests by Water and</u>
	<u>Wastewater Utilities.</u>
	<u>25-22.058</u>
	<u>Oral Argument.</u>
	<u>25-22.060</u>
	<u>Motion for Reconsideration.</u>
<u>28-106.104</u>	<u>25-22.028</u>
<u>Filing.</u>	<u>Filing, Number of Copies.</u>
<u>28-106.111</u>	<u>25-22.029</u>
<u>Point of Entry into</u>	<u>Point of Entry into Proposed</u>
<u>Proceedings and Mediation.</u>	<u>Agency Action Proceedings.</u>

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<u>28-106.205</u>	<u>25-22.039</u>
<u>Intervention.</u>	<u>Intervention.</u>
<u>28-106.208</u>	<u>25-22.0405</u>
<u>Notice of Hearing.</u>	<u>Notices of Hearings.</u>
<u>28-106.212</u>	<u>25-22.045</u>
<u>Subpoenas.</u>	<u>Subpoenas.</u>
<u>CHAPTER 28-107 LICENSING</u>	<u>25-22.075 Transmission Line</u> <u>Permitting Proceedings.</u>
	<u>25-22.080 Electrical Power</u> <u>Plant Permitting Proceedings.</u>

Specific Authority: 120.54(5)(a)3. F.S.

Law Implemented: 120.54(5)(a)3. F.S.

History--New _____.

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MEMORANDUM

January 21, 1999

TO: DIVISION OF APPEALS (MOORE)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (HEWITT) *EBH FL JMO*

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COSTS FOR DOCKET NO. 980500-PU, PROPOSED REPEAL OR AMENDMENTS OF PROCEDURAL RULES AND NEW RULE 25-40.001, F.A.C., APPLICABILITY OF UNIFORM RULES OF PROCEDURE

Currently, there are many FPSC rules that contain procedures for Commission actions. By requirements of Section 120.54(5), Florida Statutes, the state Administration Commission adopted Uniform Rules of Procedure with which the FPSC must now comply. Also, the statute requires that an agency's organization and description of its operations be made available in a statement, rather than by rule.

The proposed rule changes would comply with the statute by repealing most of the procedural rules of the Commission and amending those procedural rules retained to clarify and conform to the changes. In addition, the proposed new rule 25-40.001, F.A.C., Applicability of Uniform Rules of Procedure, identifies the exceptions to the uniform rules of procedure. All who practice or are involved in Commission proceedings are affected by the statutory changes and are required to follow the uniform rules of procedure for all agencies. However, there should be no significant additional costs from the repeal of unnecessary Commission rules and continuing certain existing rules.

The Administrative Procedures Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). However, because there should be no significant additional costs or negative impacts on utilities, small businesses, small cities, or small counties, a SERC will not be prepared for the proposed rule change.

Please keep my name on the CASR.

CBH:tf/e-memo99

cc: Mary Andrews Bane
Noreen Davis
Hurd Reeves