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MARCH 24 AM 11:40
REGISTRATION DIVISION
FLORIDA PUBLIC SERVICE COMMISSION

NOTICE OF PROPOSED RULEMAKING
FLORIDA PUBLIC SERVICE COMMISSION
DOCKET NO. 980500-PU

RULE TITLE:	RULE NO.:
MEMBERSHIP	25-21.001
MEMBERS	25-21.002
CHAIRMAN	25-21.003
DISQUALIFICATION	25-21.004
QUORUM	25-21.005
MINUTES	25-21.006
ORDERS	25-21.007
ORGANIZATION	25-21.020
OFFICE OF THE GENERAL COUNSEL	25-21.021
OFFICE OF THE EXECUTIVE DIRECTOR	25-21.022
DIVISION OF ADMINISTRATION	25-21.023
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DIVISION OF COMMUNICATIONS	25-21.026
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FPC RECORDS/REPORTING

AGENDA CONFERENCES

25-21.042

INTERNAL AFFAIRS MEETINGS

25-21.043

PURPOSE AND EFFECT: To comply with new requirements of the Administrative Procedures Act, Chapter 120, FS.

SUMMARY: The rules being repealed are no longer necessary because they are either covered by the Uniform Rules of Procedure or the information will now be located in the Statement of Agency Organization and Operation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Preparation of a SERC was found to be unnecessary.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 120.53, FS

LAW IMPLEMENTED: 120.53, FS

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

NO HEARING WILL BE HELD BECAUSE THIS RULE RELATES EXCLUSIVELY TO THE COMMISSION'S ORGANIZATION, PROCEDURE, OR PRACTICE.

THE PERSON TO BE CONTACTED REGARDING THESE PROPOSED RULES IS:

Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-

6245.

THE FULL TEXT OF THESE PROPOSED RULES IS:

PART I MEMBERSHIP

25-21.001 Membership.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--Formerly 25 1.01, 11-30-81, Formerly 25-21.01, Repealed

_____.

25-21.002 Members.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--Formerly 25-1.02, 11-30-81, Formerly 25-21.02, Repealed

_____.

25-21.003 Chairman.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

Repealed_____.

25-21.004 Disqualification.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

Repealed_____.

25-21.005 Quorum.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--Formerly 25-1.05, Amended 11-30-81, Formerly 25-21.05,
Amended 2-12-86, Repealed_____.

25-21.006 Minutes.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--Formerly 25-1.06, Amended 11-30-81, Formerly 25-21.06,
Repealed_____.

25-21.007 Orders.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--Formerly 25-1.07, Amended 11-30-81, Formerly 25-21.07,
Repealed_____.

PART II DIVISIONS

25-21.020 Organization.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--Formerly 25-1.20, Amended 11-30-81, Formerly 25-21.20,
Amended 2-12-86, 11-19-86, 8-11-92, Repealed_____.

25-21.021 Office of the General Counsel.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-21.022 Office of the Executive Director.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--Formerly 25-1.21, Amended 11-30-81, Formerly 25-21.22,
Amended 11-19-86, Repealed.

25-21.023 Division of Administration.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-21.024 Division of Auditing and Financial Analysis.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-21.026 Division of Communications.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-21.027 Division of Consumer Affairs.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-21.0301 Division of Records and Reporting.

Specific Authority 120.53 FS.

Law Implemented 120 53 FS.

History--Formerly 25-1.22, Amended 11-30-81, Formerly 25-21.025,
Amended 11-19-86, 8-11-92, Repealed.

25-21.031 Division of Research and Regulatory Review.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--Formerly 25-1.29, Amended 11-30-81, 2-11-86, Formerly
25-21.31, Amended 11-19-86, 8-11-92, Repealed.

25-21.032 Division of Water and Wastewater.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--New 11-30-81, Formerly 25-21.32, Amended 11-19-86,
Repealed.

25-21.033 Designation of Agency Clerk.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

PART III OFFICE AND CONFERENCES

25-21.040 Principal Office.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--Formerly 25-1.38, Amended 11-30-81, Formerly 25-21.40,

Repealed.

25-21.041 Conferences.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

Repealed.

25-21.042 Agenda Conferences.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

Repealed.

25-21.043 Internal Affairs Meetings.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

NAME OF PERSON ORIGINATING PROPOSED RULES: Noreen Davis

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:

Florida Public Service Commission.

DATE PROPOSED RULES APPROVED: February 16, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: None published.

NOTICE OF PROPOSED RULEMAKING
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 980500-PU

RULE TITLE:	RULE NO.:
NOTICE OF MEETING OR WORKSHOP	25-22.001
AGENDA OF MEETINGS	25-22.002
EMERGENCY MEETING	25-22.003
COMMISSION FORMS	25-22.004
NOTICING ADDRESS FILES	25-22.005
PRACTITIONERS	25-22.008
PETITIONS TO INITIATE RULEMAKING PROCEEDINGS	25-22.012
COMMISSION ACTION ON PETITIONS TO INITIATE RULEMAKING PROCEEDINGS	25-22.013
RULEMAKING MATERIALS	25-22.014
RULEMAKING PROCEEDING--NO HEARING	25-22.015
RULEMAKING PROCEEDING--HEARING	25-22.016
RULEMAKING PROCEEDING--ADOPTION	25-22.017
EMERGENCY RULE ADOPTION	25-22.018
GENERAL	25-22.020
PURPOSE AND USE OF DECLARATORY STATEMENT	25-22.021
DISPOSITION	25-22.022
SCOPE AND TITLE OF RULES	25-22.025
PARTIES	25-22.026
FILING, SERVICE OF DOCUMENTS, AND COMPUTATION OF TIME	25-22.028
POINT OF ENTRY INTO PROPOSED AGENCY ACTION PROCEEDINGS	25-22.029

procedures. The rules being repealed are no longer necessary because they are either covered by the Uniform Rules of Procedure or the information will now be located in the Statement of Agency Organization and Operation.

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SPECIFIC AUTHORITY: SPECIFIC AUTHORITY: 350.127(2), 350.01(7), 366.05, 367.121(1)(f), FS.

LAW IMPLEMENTED: 120.525, 120.54(3), 120.569, 120.57, 366.06, 367.081, 367.081(4)(a), 367.0817, 120.58, 350.123, 364.03, 364.04, 364.035, 364.05, 364.057, 364.335, 364.337, 366.03, 366.04, 366.041, 366.06, 366.071, 366.076, 366.8255, 367.031, 367.045, 367.071, 367.081, 367.0814, 367.0817, 367.082, 367.0822, 367.091, 367.101, 367.121, 367.171, 367.161, 364.035(1), 364.07, 364.14, 364.15, 364.16, 364.27, 366.05, 367.111, 367.0814(1), FS.

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THE PERSON TO BE CONTACTED REGARDING THESE PROPOSED RULES IS:

Director of Appeals, Florida Public Service Commission, 2540
Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-
6245.

THE FULL TEXT OF THESE PROPOSED RULES IS:

CHAPTER 25-22

RULES GOVERNING PRACTICE AND PROCEDURE

PART I GENERAL PROVISIONS

25-22.001 Notice of Meeting or Workshop.

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

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

~~NOTICE OF PUBLIC MEETING OR WORKSHOP~~

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

~~DATE AND TIME: _____~~

~~PLACE: _____~~

~~PURPOSE: _____~~

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

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

term meeting includes Agenda Conference.

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

Specific Authority 350.127(2) ~~120.53~~ FS.

Law Implemented 120.525, ~~120.53~~ FS.

History--New 12-21-81, Formerly 25-22.01, Amended_____.

25-22.002 Agenda of Meetings.

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

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

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

~~(4) Copies of staff recommendations for items on the agenda~~

~~may be obtained from the Division of Records and Reporting upon request and the payment of the applicable copying fee. Parties to a proceeding are entitled to one copy of the staff recommendation filed in the proceeding at no cost.~~

Specific Authority 350.127(2) ~~120.53~~ FS.

Law Implemented 120.525, ~~120.53~~ FS.

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

_____.

25-22.003 Emergency Meeting.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--New 12-21-81, Formerly 25-22.03, Repealed_____.

25-22.004 Commission Forms.

Specific Authority 120.53(1)(b) FS.

Law Implemented 120.53(1)(b) FS.

History--New 6-7-84, Formerly 25-22.04, Amended 4-16-90, 8-21-90, 8-23-90, Repealed_____.

25-22.005 Noticing Address Files.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--New 8-21-84, Formerly 25-22.05, Amended 7-11-96, Repealed_____.

25-22.008 Practitioners.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

PART II RULEMAKING PROCEEDINGS

25-22.012 Petitions to Initiate Rulemaking Proceedings.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--New 12-21-81, Formerly 25-22.12, Repealed.

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

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-22.014 Rulemaking Materials.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-22.015 Rulemaking Proceeding -- No Hearing.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-22.016 Rulemaking Proceeding -- Hearing.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-22.017 Rulemaking Proceeding -- Adoption.

(1) No Change.

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

~~(3) Where a variance from a rule is requested, the Commission shall treat the request as a petition for a § 120.57, F.S., hearing. Unless waived by all parties, the provisions of § 120.57(1), F.S., and Part IV of these rules shall apply whenever the proceeding involves a disputed issue of material fact. In cases where the provisions of § 120.57(1), F.S., do not apply, the provisions of § 120.57(2), (3), F.S., shall be followed.~~
Specific Authority ~~350.127(2)~~ 120.53 FS.

Law Implemented: ~~120.525, 120.54(3)~~ 120.53 FS.

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

Amended _____.

25-22.018 Emergency Rule Adoption.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

PART III DECLARATORY STATEMENTS

25-22.020 General.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-22.021 Purpose and Use of Declaratory Statement.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--New 12-21-81, Formerly 25-22.21, Repealed.

25-22.022 Disposition.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

PART IV DECISIONS DETERMINING SUBSTANTIAL INTERESTS

Subpart A General Provisions

25-22.025 Scope and Title of Rules.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-22.026 Parties.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

Repealed.

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

(1) Filing. Filing shall be accomplished by submitting the

original document and the appropriate number of copies, as provided by rule, to the Division of Records and Reporting (Division). Filing may be made by U.S. Mail, hand delivery, or courier service. Filings on behalf of companies with gross annual operating revenues derived from intrastate business in excess of \$750,000, Class A water and sewer utilities, and parties to proceedings affecting these entities, shall also include a copy of the document on diskette in word processing or spreadsheet format, whichever is appropriate, when filing documents capable of being generated by word processing or spreadsheet software. Material for which a request for confidential classification is pending under Rule 25-22.006, Florida Administrative Code, should not be included in a diskette copy. The diskette filing need not recreate document attachments not originally generated for the purpose of filing with the Commission, such as exhibits attached to a petition. The copy of the document on diskette shall be filed within 1 working day of the date the original printed document is filed. Information about the word processing and spreadsheet software preferred by the Commission may be obtained from the Director of the Division. Each diskette shall be accompanied by a statement specifying the density of the diskette, the operating system and the software used to prepare the document on diskette. For purposes of the requirement that copies of documents be filed on diskette, "document" means all prehearing statements regardless of length, and pleadings, post

hearing statements of positions on issues or briefs, proposed findings of fact and conclusions of law in excess of 5 pages exclusive of the service list. ~~The prehearing officer assigned to the proceeding may grant exceptions to the requirement for filing documents on diskette on a case by case basis, for good cause shown.~~ In case of a discrepancy between an original printed document that is filed and the document on diskette, the filed original document shall prevail. ~~Filing shall be completed upon receipt by the Division; provided, however, that during the course of a hearing before the Commission or a panel thereof, the presiding chairman may accept a document for filing and shall note the filing date and transmit it to the Division. If the filing is made with the presiding officer during the course of a hearing, as provided by Rule 28-106.104(1), in this situation the~~ responsible party shall ensure that a copy of the document is submitted on diskette to the Division within 5 working days. ~~The date a document is submitted for filing shall be noted by the person making the filing on the first page of the document filed.~~ Where a document is served upon a party pursuant to these rules, its original and the appropriate copies, or, in the case of interrogatories or production of documents, a notice of service, shall be filed with the Division no later than 5 days after service.

(2) Number of Copies. The original and seven copies of all pleadings shall be submitted to the Division of Records and

Reporting. However, initial pleadings for increases in rates, except rate increases by water and wastewater utilities, shall be filed with 20 copies. The requirement for filing 20 copies shall apply to all exhibits appended to the original petition, prepared testimony and exhibits, briefs and other supplemental data requested by the Commission.

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

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

~~—— (a) When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the Commission. Service on the attorney or party shall be made by hand delivery or by mail to the last known address. Delivery of a copy within this rule shall mean handing it to the attorney or to the party, or leaving it at the party's or attorney's usual office with the clerk or other person in charge, or if there is no one in charge, leaving it in a conspicuous place within the office, or if the office is closed, leaving it at the party's or attorney's usual place of abode with some person of the family above fifteen years of age and informing that person of the~~

contents.

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

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

~~_____, 19__~~

~~_____

Signature"~~

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

~~—— (4) Additional Time after Service by Mail. Whenever a party is required or permitted to do an act within a prescribed time after service of a document, and the document is served by mail, five days shall be added to the prescribed time, except that responses to notices pursuant to Sections 350.113, 364.335, and 367.045, F.S., shall be filed within the time specified by statute. Any action required by a Commission order shall be completed on the specified date, if any, in the order.~~

~~—— (5) Computation of Time. In computing any period of time prescribed or allowed by these rules, by order of a presiding officer, or by any applicable statute, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. As used in these rules, legal~~

~~holiday means those days designated in § 110.117, F.S., and any other day the Agency's offices are closed.~~

Specific Authority 350.01(7), 350.127(2) ~~120.53~~ FS.

Law Implemented 120.569, 120.57 ~~120.53~~ FS.

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

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

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

(1)+2) After agenda conference, the Division of Records and Reporting shall issue written notice of the proposed agency action (PAA), advising all parties of record that they have 21 days after issuance of the notice in which to file a request for a § 120.569 or 120.57 hearing. ~~For good cause shown the Commission may provide that~~ The time for requesting a § 120.569 or 120.57 hearing shall be 14 days from issuance of the notice for PAA orders establishing a price index pursuant to section 367.081(4)(a), F.S. The Commission will ~~may also serve copies of its notice on interested persons and may require a utility to serve written notice of the PAA on its customers if the Commission finds that it is necessary in order to afford adequate notice.~~

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

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

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

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

Specific Authority 350.01(7), 350.127(2) 120.53 FS.

Law Implemented 120.569, 120.57, 364.05, 366.06, 367.081,
367.081(4)(a), 367.0817 ~~120.53~~ FS.

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

25-22.034 Discovery.

Specific Authority 120.53 FS.

Law Implemented 120.53. FS.

History--New 12-21-81, Formerly 25-22 34, Repealed.

25-22.035 Miscellaneous Matters.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-22.0355 Assignment of Formal Proceedings.

Specific Authority 120.53, FS.

Law Implemented 120.53, 120.57(1)(a), 350.01, 350.125, FS.

History--Transferred from 25-2.501 and Amended 12-21-81, 9-20-83,
formerly 25-22.355, Repealed.

Subpart B Prehearing Procedures

25-22.036 Initiation of Formal Proceedings.

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

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

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

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

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

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

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

(3)+6 Orders and Notices. Upon its own motion, the Commission may issue an order or notice initiating a proceeding. Such order or notice shall be served upon all persons named

therein. The Commission may also transmit notice of its action to other persons requesting such notice, and may publish such notice in appropriate newspapers of general circulation and the Florida Administrative Weekly.

~~(4)(7)~~ Form and Content.

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

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

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

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

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

~~5. A demand for relief; and~~

~~6. Other information which the applicant, complainant or petitioner contends is material.~~

~~(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.

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

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

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

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

~~pleading after the designation of the presiding officer only upon order of the presiding officer.~~

~~—— (9) Disposition.~~

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

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

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

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

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

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

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

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

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

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

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

Specific Authority 350.01(7), 350.127(2) ~~120.53~~ FS.

Law Implemented 120.569, 120.57, 364.035, 364.05, 364.057,
364.335, 364.337, 366.04, 366.06, 366.071, 366.076, 366.8255,
367.031, 367.045, 367.071, 367.081, 367.0814, 367.0817, 367.082,
367.0822, 367.091, 367.101, 367.171. ~~120.53~~ FS.

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

25-22.037 Answers and Motions.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-22.0375 Pleadings.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

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

Specific Authority 120.53, FS.

Law Implemented 120.53, FS.

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

25-22.0405 Notices of Public Hearings.

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

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

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

~~(4) The Commission will may require any public utility in a~~

such proceedings to publish additional notices of hearing in newspapers of general circulation in the area affected and to give notice to its customers by mail, ~~if as may be deemed reasonably necessary~~ by the Commission finds that it is necessary in order to afford adequate notice to the customers of the utility.

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

Specific Authority 350.127(2), 366.05, 367.121(1)(f) FS.

Law Implemented 120.569, 120.57, 364.03, 364.035(1), 364.07, 364.14, 364.15, 364.16, 364.27, 366.04, 366.05, 367.081, 367.111 FS.

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

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

(1) - (2) No Change.

(3)(a) Within 15 days after it has been notified by the Commission that the Minimum Filing Requirements (MFRs) have been met, the utility shall place a copy of the MFRs at its official headquarters and at its business office in each municipality in which service hearings were held in the last general rate case of

the utility. Within 15 days after the time schedule has been mailed to the utility, copies of the MFRs shall be placed in the utility business office in each additional city in which service hearings are to be held. Upon customer request a copy of the MFRs shall be placed in a utility business office not located in a city where a service hearing is to be held. The copies of the MFRs shall be available for public inspection during the utility's regular business hours.

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

(4) (a) - (8) No Change.

Specific Authority 350.127(2), 366.05 FS.

Law Implemented 120.569, 120.57, 364.035(1), 364.01(4), 364.04(3)(4), 364.05(1)(2), 364.19, 366.03, 366.04(1), 366.05(1), 366.06(1) FS.

History--New 9-27-83, Formerly 25-22.406, Amended 5-27-93,

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

(1) - (2) No Change.

(3) Within 30 days after the official date of filing established by the Commission, the utility shall place a copy of the petition and the MFRs at its official headquarters and at any

business offices it has in the service areas included in the rate request. Such copies shall be available for public inspection during the utility's regular business hours. If the utility does not have a business office in a service area included in its rate request, the utility shall place a copy of the petition and the MFRs at the main county library, the local community center or other appropriate location which is within or most convenient to the service area and which is willing to accept and provide public access to the copies. If the Commission determines that these locations will not provide adequate access, ~~t~~The Commission will ~~may~~ require that copies of the petition and MFRs be placed at other specified locations.

(4)(a) - (10) No Change.

Specific Authority 350.127(2), 367.121(1)(f) FS.

Law Implemented 120.569, 120.57, 367.081(2)(a), 367.0814(1), 367.0817, 367.091, 367.121(1)(a) FS.

History--New 5-27-93, Amended _____.

25-22.041 Continuances.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

25-22.042 Dismissal.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

Repealed.

Subpart C Conduct of Formal Hearings

25-22.045 Subpoenas.

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

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

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

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

~~thereof to the person named in the subpoena. Proof of service shall be made by affidavit of the person making service if service is not made by an officer authorized by law to do so.~~

~~(5) Service of a subpoena may also be effected by certified mail, in which case the return receipt must be signed by the person named in the subpoena.~~

Specific Authority 350.127(2) FS.

Law Implemented 120.569, 120.57, 350.123 FS.

History--Formerly 25-2.100, Amended 12-21-81, Formerly 25-22.45,

Amended.

25-22.046 Witnesses and Witness Fees.

Specific Authority 120.53, FS.

Law Implemented 120.53, FS.

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

25-22.048 Evidence.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

History--New 12-21-81, Formerly 25-22.48, Repealed.

25-22.049 Recordation.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

Subpart D Post-hearing Procedures

25-22.056 Post-hearing Filings.

Specific Authority 120.53 FS.

Law Implemented 120.53, 120.57, 120.58 FS.

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

Repealed.

25-22.059 Final Orders.

Specific Authority 120.53 FS.

Law Implemented 120.53 FS.

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

NAME OF PERSON ORIGINATING PROPOSED RULES: Noreen Davis

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:

Florida Public Service Commission.

DATE PROPOSED RULES APPROVED: February 16, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

Volume 24, No. 50, December 11, 1998

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 980500-PU

RULE TITLE:

RULE NO.:

EXCEPTIONS TO UNIFORM RULES OF PROCEDURE

25-40.001

PURPOSE AND EFFECT: To comply with s. 120.54(5)(a)3., F.S., each agency that adopts rules that provide exceptions to the uniform rules must publish a separate chapter in the FAC that delineates clearly the agency's rules that provide exceptions to the uniform rules.

SUMMARY: Provides list of rules that are an exception to the uniform rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Preparation of a SERC was found to be unnecessary.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 120.54(5)(a)3., FS.

LAW IMPLEMENTED: 120.54(5)(a)3., FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

NO HEARING WILL BE HELD BECAUSE THIS RULE RELATES EXCLUSIVELY TO

THE COMMISSION'S ORGANIZATION, PROCEDURE, OR PRACTICE.

THE PERSON TO BE CONTACTED REGARDING THESE PROPOSED RULES IS:

Director of Appeals, Florida Public Service Commission, 2540
Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-
6245.

THE FULL TEXT OF THESE PROPOSED RULES IS:

25-40.001 Exceptions to the Uniform Rules of Procedure. The following provisions of the Commission's rules are exceptions to 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>

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

<u>28-106.205</u> <u>Intervention.</u>	<u>25-22.039</u> <u>Intervention.</u>
<u>28-106.208</u> <u>Notice of Hearing.</u>	<u>25-22.029</u> <u>Point of Entry into PAA</u> <u>Proceeding.</u> <u>25-22.0405</u> <u>Notices of Hearings.</u>
<u>28-106.212</u> <u>Subpoenas.</u>	<u>25-22.045</u> <u>Subpoenas.</u>
<u>CHAPTER 28-107 LICENSING</u>	<u>25-22.075</u> <u>Transmission Line</u> <u>Permitting Proceedings.</u> <u>25-22.080</u> <u>Electrical Power</u> <u>Plant Permitting Proceedings.</u>

Specific Authority 120.54(5)(a)3., FS.

Law Implemented 120.54(5)(a)3., FS.

History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Noreen Davis

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:

Florida Public Service Commission.

DATE PROPOSED RULES APPROVED: February 16, 1999

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