

STATE OF FLORIDA

ORIGINAL

Commissioners:
JOE GARCIA, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.



DIVISION OF APPEALS
DAVID SMITH
DIRECTOR
(850) 413-6245

Public Service Commission

March 31, 1999

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


RE: DOCKET NO. 980500-PU

Dear Mr. Webb:

The Commission has approved the adoption of the rules without changes.

We plan to file the rules for adoption on April 8, 1999.

Sincerely,


Christiana T. Moore
Associate General Counsel

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMU _____
- CTR _____
- EAG _____
- LEG _____
- LIN _____
- OPC _____
- RCH _____
- SEC _____
- WAS _____
- OTH _____

Enclosure
cc: Division of Records & Reporting

DOCUMENT NUMBER - DATE

04151 MAR 31 99

PSC - RECORDS/REPORTING

1 CHAPTER 25-21

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 FS.

12 Law Implemented: 120.53 FS.

13 History--Formerly 25-1.01, 11-30-81, Formerly 25-21.01, Repealed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

21 Law Implemented: 120.53 FS.

22 History--Formerly 25-1.02, 11-30-81, Formerly 25-21.02, Repealed

23 ____.

24 25-21.003 Chairman.

25 ~~The chairman is the chief administrative officer of the~~

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

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

8 Specific Authority: 120.53 FS.

9 Law Implemented: 120.53 FS.

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

11 Repealed.

12 25-21.004 Disqualification.

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

17 ~~(2) A commissioner subject to disqualification under~~
18 ~~subsection (1) of this rule may disclose on the record the basis~~
19 ~~for disqualification instead of withdrawing from the proceeding.~~
20 ~~if, based on such disclosure, the parties, independently of the~~
21 ~~commissioner's participation, all agree in writing that the~~
22 ~~commissioner's basis for disqualification is immaterial or~~
23 ~~insubstantial, the commissioner may participate in the proceeding.~~
24 ~~The agreement, signed by all parties or their lawyers, shall be~~
25

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1 | ~~incorporated into the record of the proceedings.~~

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

9 | ~~(4) Commission staff members continue to perform their usual~~
10 | ~~functions in all matters even though one or more of the~~
11 | ~~commissioners may be disqualified.~~

12 | Specific Authority: 120.53 FS.

13 | Law Implemented: 120.53 FS.

14 | History--Formerly 25-1.04, Amended 11-30-81, Formerly 25-21.04.

15 | Repealed.

16 | 25-21.005 Quorum.

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

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1 ~~for disposition. In such an event, the full Commission shall review~~
2 ~~the record as provided in Section 120.57(1)(b)9.~~

3 Specific Authority: 120.53 FS.

4 Law Implemented: 120.53 FS.

5 History--Formerly 25-1.05, Amended 11-30-81, Formerly 25-21.05,
6 Amended 2-12-86, Repealed.

7 25-21.006 Minutes.

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

13 Specific Authority: 120.53 FS.

14 Law Implemented: 120.53 FS.

15 History--Formerly 25-1.06, Amended 11-30-81, Formerly 25-21.06,
16 Repealed.

17 25-21.007 Orders.

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

23 Specific Authority: 120.53 FS.

24 Law Implemented: 120.53 FS.

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

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1 Law Implemented: 120.53 FS.

2 History--Formerly 25-1.20, Amended 11-30-81, Formerly 25-21.20,

3 Amended 2-12-86, 11-19-86, 8-11-92, Repealed _____.

4 25-21.021 Office of the General Counsel.

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

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

23 ~~_____ (2) The Division of Legal Services supervises the procedural~~
24 ~~and legal aspects of rate cases and other formal proceedings before~~
25 ~~the Commission, the Division of Administrative Hearings and, on~~

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1 ~~behalf of the Commission, in civil court proceedings. This division~~
2 ~~also represents the staff before the Commission and issues reports~~
3 ~~and recommendations to the Commission as requested.~~

4 Specific Authority: 120.53 FS.

5 Law Implemented: 120.53 FS.

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

7 Repealed.

8 25-21.022 Office of the Executive Director.

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

18 Specific Authority: 120.53 FS.

19 Law Implemented: 120.53 FS.

20 History--Formerly 25-1.21, Amended 11-30-81, Formerly 25-21.22,

21 Amended 11-19-86, Repealed.

22 25-21.023 Division of Administration.

23 ~~The Division of Administration provides administrative and~~
24 ~~support services for the Commission and provides budget planning~~
25 ~~assistance to the Commission's executive offices and operating~~

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

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1 ~~information from other divisions, preparing needs assessments and~~
2 ~~maintaining plans for the procurement and implementation of all~~
3 ~~information processing technologies within the Commission,~~
4 ~~developing and implementing information systems, and providing a~~
5 ~~continuing program of support and maintenance.~~

6 Specific Authority: 120.53 FS.

7 Law Implemented: 120.53 FS.

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

10 25-21.024 Division of Auditing and Financial Analysis.

11 ~~The Division of Auditing and Financial Analysis is involved in~~
12 ~~all areas of regulation which require accounting, auditing,~~
13 ~~financial and engineering expertise. This includes items such as~~
14 ~~advising the Commission on security applications, conducting~~
15 ~~financial audits, reviewing capital recovery applications,~~
16 ~~conducting special studies of a financial nature, and determining~~
17 ~~revenue requirements in rate cases. The Division also participates~~
18 ~~in proceedings concerning matters of accounting, cost of capital,~~
19 ~~income taxes, audit results, and capital recovery. The Division~~
20 ~~receives and maintains copies of annual financial reports and rate~~
21 ~~of return reports of all local exchange telecommunications,~~
22 ~~investor owned electric, and gas utilities.~~

23 Specific Authority: 120.53 FS.

24 Law Implemented: 120.53 FS.

25 History--New 11-30-81, Formerly 25-21.24, Amended 2-12-86,

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1 11-19-86, 8-11-92, Repealed.

2 25-21.026 Division of Communications.

3 ~~The Division of Communications serves as telecommunications~~
4 ~~adviser to the Commission; prepares testimony, exhibits and~~
5 ~~cross-examination questions and participates in informal and formal~~
6 ~~proceedings involving telecommunications standards of service and~~
7 ~~construction practices; provides instruction and guidance~~
8 ~~concerning technological changes and their impact; conducts~~
9 ~~periodic on-site safety inspections of telecommunications~~
10 ~~facilities; establishes procedures for the review of tariff~~
11 ~~changes, additions, rate changes and determines revenues to be~~
12 ~~derived; evaluates telecommunications company quality of service;~~
13 ~~and conducts compliance audits of regulated telephone companies to~~
14 ~~insure compliance with tariff and Commission rules and Florida~~
15 ~~Statutes.~~

16 Specific Authority: 120.53 FS.

17 Law Implemented: 120.53 FS.

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

20 25-21.027 Division of Consumer Affairs.

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

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1 ~~consumer education.~~

2 Specific Authority: 120.53 FS.

3 Law Implemented: 120.53 FS.

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

6 25-21.028 Division of Electric and Gas.

7 ~~The Division of Electric and Gas evaluates the quantity and~~
8 ~~quality of service provided by electric and gas utilities and~~
9 ~~recommends appropriate action when necessary. It participates in~~
10 ~~formal rate proceedings through reviewing and analyzing testimony~~
11 ~~and exhibits, assisting in the cross examination of witnesses, and~~
12 ~~preparing recommendations covering areas such as plant investments,~~
13 ~~reserve margins, quality of service, conservation, cogeneration,~~
14 ~~power plant and transmission line siting, and related items. These~~
15 ~~functions have the collective goal of ensuring that the public~~
16 ~~receives the lowest cost electricity or natural gas consistent with~~
17 ~~the revenue requirements of the utility so as to provide an~~
18 ~~acceptable level of service.~~

19 Specific Authority: 120.53 FS.

20 Law Implemented: 120.53 FS.

21 History--New 11-30-81, Formerly 25-21.28, Amended 11-19-86,
22 8-11-92, _____.

23 25-21.0301 Division of Records and Reporting.

24 ~~The Division of Records and Reporting receives, records,~~
25 ~~distributes, and maintains the official files of all documents~~

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1 ~~impact statements on proposed rules. The Division is also~~
2 ~~responsible for monitoring the utilities' current methods of~~
3 ~~operation, conducting studies of utility management efficiency,~~
4 ~~internal control systems, and company operating processes and~~
5 ~~procedures, performing special investigations, and coordinating~~
6 ~~follow-up of its findings with other Commission staff. The Division~~
7 ~~monitors consistency across the Commission's industry divisions for~~
8 ~~rules, policies, and procedures which affect utilities, and~~
9 ~~facilitates internal consistency with regard to operations of the~~
10 ~~various divisions.~~

11 Specific Authority: 120.53 FS.

12 Law Implemented: 120.53 FS.

13 History--Formerly 25-1.29, Amended 11-30-81, 2-11-86, Formerly
14 25-21.31, Amended 11-19-86, 8-11-92, Repealed.

15 25-21.032 Division of Water and Wastewater.

16 ~~The Division of Water and Wastewater enforces the Commission's~~
17 ~~rules governing the operation of privately owned water and~~
18 ~~wastewater systems in those counties subject to the Commission's~~
19 ~~jurisdiction. The division certifies systems and areas of service.~~
20 ~~It aids the Commission in the regulation of both rates and quality~~
21 ~~of service. The division also serves as the official custodian of~~
22 ~~all water and wastewater companies' annual financial reports.~~

23 Specific Authority: 120.53 FS.

24 Law Implemented: 120.53 FS.

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

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1 Repealed.

2 25-21.033 Designation of Agency Clerk.

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

8 Specific Authority: 120.53 FS.

9 Law Implemented: 120.53 FS.

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

11 PART III OFFICE AND CONFERENCES

12 25-21.040 Principal Office.

13 ~~The principal office of the Commission is located in~~
14 ~~Tallahassee, Florida. Its present street address is 2540 Shumard~~
15 ~~Oak Boulevard, Tallahassee, Florida, and its present zip code is~~
16 ~~32399-0850.~~

17 Specific Authority: 120.53 FS.

18 Law Implemented: 120.53 FS.

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

20 Repealed.

21 25-21.041 Conferences.

22 ~~Anyone desiring a conference with the Commissioners or~~
23 ~~Commission staff personnel with respect to matters over which the~~
24 ~~Commission has jurisdiction may request such a conference through~~
25 ~~the Commission Chairman, a Commissioner, the Division of Records~~

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1 ~~and Reporting, the Executive Director, or the particular staff~~
2 ~~member involved. A written request concerning the purpose and~~
3 ~~anticipated duration of the conference should be furnished in order~~
4 ~~to avoid conflicts and facilitate the availability of staff members~~
5 ~~and records, if needed. In an emergency, the foregoing may be~~
6 ~~communicated by telephone. Nothing in this rule obviates the~~
7 ~~prohibition against ex parte communications in pending cases to~~
8 ~~determine substantial interests.~~

9 Specific Authority: 120.53 FS.

10 Law Implemented: 120.53 FS.

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

12 Repealed.

13 25-21.042 Agenda Conferences.

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

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1 | ~~prohibition against ex parte communications in adjudicatory~~
2 | ~~proceedings.~~

3 | Specific Authority: 120.53 FS.

4 | Law Implemented: 120.53 FS.

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

6 | Repealed.

7 | 25-21.043 Internal Affairs Meetings.

8 | ~~Internal Affairs meetings are held for the purpose of~~
9 | ~~discussing matters that are not docketed and that relate to the~~
10 | ~~Commission's organization, functions, management, operations,~~
11 | ~~finances, intra and intergovernmental affairs, and for special~~
12 | ~~presentations. Notice of the meetings is published in the Florida~~
13 | ~~Administrative Weekly.~~

14 | Specific Authority: 120.53 FS.

15 | Law Implemented: 120.53 FS.

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

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1 CHAPTER 25-22

2 RULES GOVERNING PRACTICE AND PROCEDURE

3 PART I GENERAL PROVISIONS

4 25-22.001 Notice of Meeting or Workshop.

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

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

10 ~~NOTICE OF PUBLIC MEETING OR WORKSHOP~~

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

13 ~~DATE AND TIME: _____~~

14 ~~PLACE: _____~~

15 ~~PURPOSE: _____~~

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

19 (1)(3) A public meeting, for the purposes of notice in Rule
20 28-107.001, F.A.C. herein, is limited to a gathering of
21 Commissioners for the purpose of conducting public business. The
22 term meeting includes Agenda Conference.

23 (2)(4) A workshop, for the purposes of notice in Rule 28-
24 102.001, F.A.C., is a gathering where Commissioners may be
25 present or Commission staff or person(s) designated by the

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1 commission are meeting with interested persons for a specific
2 purpose as designated in the notice. The term workshop includes
3 gatherings for the specific purpose of rule drafting at which
4 time no official votes are taken or policy adopted.

5 Specific Authority: 350.127(2) ~~120.53~~, F.S.

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

7 History--New 12/21/81, Formerly 25-22.01, Amended.

8 25-22.002 Agenda of Meetings.

9 ~~----- (1) The agenda for meetings shall be prepared by the~~

10 ~~Commission in time to insure that a copy may be received at least~~
11 ~~seven (7) days before the meeting by any person in the State who~~
12 ~~has requested a copy and pays \$1.00 per copy.~~

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

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

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

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1 Specific Authority: 350.127(2) ~~120.53~~, F.S.

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

3 History--New 12/21/81, Formerly 25-22.02, Amended 4/18/94, _____.

4 25-22.003 Emergency Meeting.

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

8 ~~----- (2) Whenever an emergency meeting is scheduled to be held,~~
9 ~~the Commission shall notify at least one major newspaper of~~
10 ~~general circulation in the area where the meeting will take place~~
11 ~~and may also notify all major wire services of the time, date,~~
12 ~~place and purpose of the meeting. The Commission shall also~~
13 ~~notify, by telephone, each person who will be affected by the~~
14 ~~emergency action, if such person has requested notice of such~~
15 ~~emergency meetings and has filed with the Division of Records and~~
16 ~~Reporting the name, address and telephone number of a person to~~
17 ~~contact in the event of an emergency meeting.~~

18 ~~----- (3) Following an emergency meeting, the commission shall~~
19 ~~publish in the Florida Administrative Weekly, notice of the time,~~
20 ~~date and place of the meeting, a statement setting forth the~~
21 ~~reasons why an emergency meeting was necessary and a statement~~
22 ~~setting forth the action taken at the meeting.~~

23 Specific Authority: 120.53, F.S.

24 Law Implemented: 120.53, F.S.

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

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1 25-22.004 Commission Forms.

2 ~~The Commission maintains certain forms that are required to~~
3 ~~be filed from time to time. These forms are listed hereafter and~~
4 ~~may be obtained at no cost by writing to the indicated division~~
5 ~~at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.~~
6 ~~The Form Number shows the effective date of the latest revision~~
7 ~~of the form in parentheses.~~

8	<u>FORM TITLE</u>	<u>FORM NUMBER</u>	<u>AVAILABLE FROM</u>
9	Class A&B Water & Wastewater	PSC/WAW4 (11/83)	Water and
10	Annual Report		Wastewater
11	Class C Water & Wastewater	PSC/WAW5 (11/83)	Water and
12	Annual Report		Wastewater
13	Class D Water & Wastewater	PSC/WAW6 (11/83)	Water and
14	Annual Report		Wastewater
15	Annual Report of	PSC/EAG2 (11/83)	Auditing and
16	Electric Utilities		Financial-
17			Analysis
18	Annual Report of	PSC/EAG1 (11/83)	Auditing and
19	Natural Gas Companies		Financial-
20			Analysis
21	Action Plan Report	PSC/APA2 (12/83)	Auditing and
22			Financial-
23			Analysis
24	Implementation Plan	PSC/APA3 (12/83)	Auditing and
25	Status Report		Financial-

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1	_____	_____	Analysis
2	Cost/Benefit Analysis	PSC/AFA4 (12/83)	Auditing and
3	of Recommendations	_____	Financial
4	_____	_____	Analysis
5	Executive Summary	PSC/AFA5 (12/83)	Auditing and
6	Supplement to Annual	_____	Financial
7	Report of Company	_____	Analysis
8	Subpoena Duces Tecum	PSC/RAR1 (11/83)	Records and
9	_____	_____	Reporting
10	Witness Subpoena	PSC/RAR2 (11/83)	Records and
11	_____	_____	Reporting
12	Subpoena for Deposition	PSC/RAR3 (11/83)	Records and
13	_____	_____	Reporting
14	Application for	PSC/RAR4 (11/83)	Records and
15	Admission to Practice	_____	Reporting
16	Miscellaneous Revenue	PSC/RAR6 (11/83)	Records and
17	Invoice Forms	_____	Reporting
18	Base Rate Area Survey	PSC/CMU1 (11/83)	Communications
19	Report (QR1)	_____	_____
20	Summary of Service	PSC/CMU2 (11/83)	Communications
21	Applications (QR2)	_____	_____
22	Summary of Complete	PSC/CMU3 (11/83)	Communications
23	Service Orders (New	_____	_____
24	Service) (QR3)	_____	_____
25	Summary of Complete	PSC/CMU4 (11/83)	Communications

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1 ~~Service Orders (Regrades)~~
2 ~~(QR3B)~~
3 ~~Summary of Held~~ ~~PSC/CMU5 (11/83)~~ ~~Communications~~
4 ~~Applications (New~~
5 ~~Service) (QR4A)~~
6 ~~Held Applications Aged~~ ~~PSC/CMU6 (11/83)~~ ~~Communications~~
7 ~~Over 6 Months (New~~
8 ~~Service) (QR4B)~~
9 ~~Summary of Held~~ ~~PSC/CMU7 (11/83)~~ ~~Communications~~
10 ~~Applications (Regrades)~~
11 ~~(QR5A)~~
12 ~~Held Applications Aged~~ ~~PSC/CMU8 (11/83)~~ ~~Communications~~
13 ~~Over 6 Months (Regrades)~~
14 ~~(QR5B)~~
15 ~~Station Data (QR6)~~ ~~PSC/CMU9 (11/83)~~ ~~Communications~~
16 ~~Central Office Data~~ ~~PSC/CMU10 (11/83)~~ ~~Communications~~
17 ~~Equipment Usage (QR7A)~~
18 ~~Central Office Data~~ ~~PSC/CMU11 (11/83)~~ ~~Communications~~
19 ~~Class of Service Ratio~~
20 ~~(QR7B)~~
21 ~~Repair Service Trouble~~ ~~PSC/CMU12 (11/83)~~ ~~Communications~~
22 ~~Report (QR8)~~
23 ~~Answer Time Operator (QR9A)~~ ~~PSC/CMU13 (11/83)~~ ~~Communications~~
24 ~~Answer Time Directory~~ ~~PSC/CMU14 (11/83)~~ ~~Communications~~
25 ~~Assistance (QR9B)~~

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1 ~~Answer Time Repair (QR9C)~~ ~~PSC/CMU15(11/83)~~ ~~Communications~~
2 ~~Answer Time Business~~ ~~PSC/CMU16(11/83)~~ ~~Communications~~
3 ~~Office (QR9D)~~
4 ~~Toll Traffic Results (QR10)~~ ~~PSC/CMU17(11/83)~~ ~~Communications~~
5 ~~Repair Service~~ ~~PSC/CMU18(11/83)~~ ~~Communications~~
6 ~~Appointments (QR12A)~~
7 ~~Service Order~~ ~~PSC/CMU19(11/83)~~ ~~Communications~~
8 ~~Appointments (QR12B)~~
9 ~~Minimum Filing Require~~ ~~PSC/CMU20(11/83)~~ ~~Communications~~
10 ~~ments (MFR's)~~
11 ~~Reseller Application for~~ ~~PSC/CMU22(11/83)~~ ~~Communications~~
12 ~~Certificate~~
13 ~~Regulatory Assessment~~ ~~PSC/CMU25(5/84)~~ ~~Communications~~
14 ~~Fee Telephone~~
15 ~~Regulatory Assessment~~ ~~PSC/EAG3(5/84)~~ ~~Electric & Gas~~
16 ~~Fee Gas~~
17 ~~Regulatory Assessment~~ ~~PSC/EAG4(5/84)~~ ~~Electric & Gas~~
18 ~~Fee Electric,~~
19 ~~Investor Owned~~
20 ~~Regulatory Assessment~~ ~~PSC/EAG5(5/84)~~ ~~Electric & Gas~~
21 ~~Fee Municipal &~~
22 ~~RBA Electric~~
23 ~~Quarterly Report for~~ ~~PSC/EAG6(12/83)~~ ~~Electric & Gas~~
24 ~~Electric Utilities~~
25 ~~Rate of Return Report~~ ~~PSC/EAG7(12/83)~~ ~~Electric & Gas~~

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1	(Electric)		
2	Fuel Cost Recovery Forms	PSC/EAG8(12/83)	Electric & Gas
3	Forecast of Capital	PSC/EAG9(12/83)	Electric & Gas
4	Expenditures		
5	Gas Minimum Filing	PSC/EAG10(12/83)	Electric & Gas
6	Requirements		
7	Electric Minimum Filing	PSC/EAG11(12/83)	Electric & Gas
8	Requirements		
9	KWH Sales and Customer	PSC/EAG12(12/83)	Electric & Gas
10	Data		
11	Overhead/Underground	PSC/EAG13(12/83)	Electric & Gas
12	Wiring Data		
13	Conservation Cost	PSC/EAG14(12/83)	Electric & Gas
14	Effectiveness		
15	Residential Conservation	PSC/EAG15(12/83)	Electric & Gas
16	Service Audit		
17	Conservation Cost	PSC/EAG16(12/83)	Electric & Gas
18	Recovery Forms		
19	Loan Guarantee	PSC/EAG17(12/83)	Electric & Gas
20	Quarterly Report		
21	Annual Need Forms	PSC/EAG18(12/83)	Electric & Gas
22	(Supply Side)		
23	Annual Need Forms	PSC/EAG19(12/83)	Electric & Gas
24	(Demand Side)		
25	Typical Monthly Bills	PSC/EAG20(12/83)	Electric & Gas

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1	for Electric Service		
2	Conservation Progress	PSC/EAG21 (12/83)	Electric & Gas
3	Reporting Forms		
4	FPSC 423 Fuel Forms	PSC/EAG22 (12/83)	Electric & Gas
5	Quarterly Report of	PSC/EAG23 (12/83)	Electric & Gas
6	Small Gas Utilities		
7	Quarterly Report of	PSC/EAG24 (12/83)	Electric & Gas
8	Large Gas Utilities		
9	Purchase Gas Adjustment	PSC/EAG25 (12/83)	Electric & Gas
10	Forms		
11	Typical Monthly Bills	PSC/EAG26 (12/83)	Electric & Gas
12	for Gas Service		
13	Therm Sales and Customer	PSC/EAG27 (12/83)	Electric & Gas
14	Data		
15	Rate of Return Report	PSC/EAG28 (12/83)	Electric & Gas
16	(Gas)		
17	Application for Staff	PSC/WAW2 (11/83)	Water &
18	Assistance		Wastewater
19	Application for	PSC/WAW7 (11/83)	Water &
20	Transfer of		Wastewater
21	Certificate		
22	Application for	PSC/WAW8 (11/83)	Water &
23	Amendment of		Wastewater
24	Certificate		
25	Application for	PSC/WAW9 (11/83)	Water &

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1 ~~Original Certificate~~ ~~Wastewater~~
2 ~~Regulatory Assessment~~ ~~PSC/WAW10(5/84)~~ ~~Water &~~
3 ~~Fee~~ ~~Water & Sewer~~ ~~Wastewater~~
4 ~~Sales to Nonprofit~~ ~~PSC/WAW11(1/84)~~ ~~Water &~~
5 ~~Agencies~~ ~~Wastewater~~
6 ~~Sales to Government~~ ~~PSC/WAW12(1/84)~~ ~~Water &~~
7 ~~Agencies~~ ~~Wastewater~~
8 ~~Jurisdictional~~ ~~PSC/WAW13(1/84)~~ ~~Water &~~
9 ~~Information~~ ~~Wastewater~~
10 ~~Application for~~ ~~PSC/WAW14(1/84)~~ ~~Water &~~
11 ~~Certificate (Grandfather~~ ~~Wastewater~~
12 ~~Rights)~~
13 ~~Price Index Adjustments~~ ~~PSC/WAW15(1/84)~~ ~~Water &~~
14 ~~in Rates~~ ~~Wastewater~~
15 ~~Pass through Rate~~ ~~PSC/WAW16(1/84)~~ ~~Water &~~
16 ~~Adjustments~~ ~~Wastewater~~
17 Specific Authority: 120.53(1)(b), F.S.
18 Law Implemented: 120.53(1)(b), F.S.
19 History--New 6/7/84, Formerly 25-22.04, Amended 4/16/90, 8/21/90.
20 8/23/90, Repealed.
21 25-22.005 Noticing Address Files.

22 ~~The Division of Records and Reporting ("the Division") shall~~
23 ~~maintain a main noticing address file for purposes of~~
24 ~~distributing Commission agenda, notices of workshops and~~
25 ~~rulemaking and, where appropriate, other notices and orders. The~~

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1 ~~Division shall also maintain an individual noticing address file~~
2 ~~for each docket for purposes of distributing Commission notices~~
3 ~~and orders issued in 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 Council, the Clerk~~
7 ~~of each Board of County Commissioners and the chief executive~~
8 ~~officer of each municipality. This file shall also contain a~~
9 ~~name, address and telephone number for each person requesting in~~
10 ~~writing to be included in the file on one or more of the~~
11 ~~following lists:~~

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

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

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

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

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

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

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

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1 ~~regulated utility's rates or service may be affected). Absent~~
2 ~~such a showing, a person will not be included on this list.~~

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

5 ~~—— (a) Electric~~

6 ~~—— (b) Gas~~

7 ~~—— (c) Telecommunications~~

8 ~~—— (d) Water and Wastewater~~

9 ~~—— (e) Practice and Procedure~~

10 ~~—— (3) Any person seeking to be included in the main noticing~~
11 ~~address file shall file a written request with the Division. The~~
12 ~~request shall state the name, address and telephone number the~~
13 ~~person seeks to have placed in the file, as well as the list (or~~
14 ~~and category (ies) in which the person desires to be included.~~

15 ~~Persons entitled to practice before the Commission under Rule~~
16 ~~25-22-006 may request inclusion in the file as representatives of~~
17 ~~their client(s). A request for inclusion in the rulemaking list~~
18 ~~does not constitute a request for a notice of change to a~~
19 ~~proposed rule under Section 120.54(11)(a), F.C.~~

20 ~~—— (4) Purge of Main File. During the first quarter of each~~
21 ~~calendar year the Division shall transmit to all persons listed~~
22 ~~in the main file under the lists described in (1)(a) — (f) a~~
23 ~~written request to confirm the name, address and telephone number~~
24 ~~on file and the types of notices to be received. Any person who~~
25 ~~fails to confirm the foregoing in writing within 30 days after~~

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1 ~~the date of the Division's request shall be stricken from the~~
2 ~~main noticing address file.~~

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

21 ~~— (6) Docket File. Individual docket mailing address files~~
22 ~~shall be maintained as part of each docket file and contain the~~
23 ~~name, address and phone number of each party of record, or its~~
24 ~~representative, and each person requesting copies of notices and~~
25 ~~orders issued in that docket and qualifying under this~~

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1 subsection.

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

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

23 ~~—— (8) The Division Director may grant requests to be placed in~~
24 ~~the main file under (i) (f) or requests to be placed in a docket~~
25 ~~noticing address file. The Chairman will rule on all such~~

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1 ~~requests that the Division Director recommends be denied.~~

2 Specific Authority: 120.53, F.S.

3 Law Implemented: 120.53, F.S.

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

5 Repealed.

6 25-22.008 Practitioners.

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

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

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

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

16 ~~— 1. Introduction of evidence;~~

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

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

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

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

21 ~~— 6. Making decisions affecting important legal rights and~~
22 ~~obligations of clients; and~~

23 ~~— 7. Filing written pleadings.~~

24 ~~— 8. Conducting discovery.~~

25 ~~(2) Class A practitioners.~~

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

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

13 ~~— (3) Class B practitioners:~~

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

22 ~~Specifically, the applicant for a Class B certification must~~
23 ~~detail:~~

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

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1 ~~may grant the application. Where, however, the Office of General~~
2 ~~Counsel determines that the application should be denied, its~~
3 ~~recommendation shall come to the Commission's attention at agenda~~
4 ~~conference and the Commission shall dispose of the application.~~

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

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

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

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

25 ~~(f) Each Class B practitioner shall promptly notify the~~

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1 ~~Director of Records and Reporting of any changes to the~~
2 ~~practitioner's mailing address, street address or business~~
3 ~~telephone number.~~

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

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

19 ~~— (5) Rule 28-5.1056, Florida Administrative Code, entitled~~
20 ~~"Standards of Conduct for Administrative Proceedings," is~~
21 ~~incorporated by reference into this rule and applies to~~
22 ~~practitioners in any Commission proceeding other than~~
23 ~~practitioners subject to the disciplinary procedures of The~~
24 ~~Florida Bar.~~

25 ~~— (6) A practitioner representing a party in an evidentiary~~

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1 ~~proceeding shall not appear as a witness in any hearing in that~~
2 ~~proceeding except where the Commission determines:~~

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

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

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

9 ~~— (d) disqualification of the practitioner would work~~
10 ~~substantial hardship on the person desiring non-attorney~~
11 ~~representation.~~

12 Specific Authority: 120.53, F.S.

13 Law Implemented: 120.53, F.S.

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

15 Repealed.

16 PART II RULEMAKING PROCEEDINGS

17 25-22.012 Petitions to Initiate Rulemaking Proceedings.

18 ~~(1) All petitions for the initiation of rulemaking~~
19 ~~proceedings pursuant to Section 120.54(5), F.S., must contain the~~
20 ~~name and address of the petitioner, specific reasons for the~~
21 ~~proposed adoption, amendment or repeal, the specific action~~
22 ~~requested, the date submitted, and the proposed rule or~~
23 ~~amendment.~~

24 ~~— (2) Any interested person may file a statement in support of~~
25 ~~or in opposition to any petition for the initiation of rulemaking~~

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1 ~~proceedings. The interested person shall furnish the petitioner~~
2 ~~with a copy upon filing of the statement.~~

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

7 Specific Authority: 120.53, F.S.

8 Law Implemented: 120.53, F.S.

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

10 25-22.013 Commission Action on Petitions to Initiate Rulemaking
11 Proceedings.

12 ~~(1) Upon receipt of any petition for the initiation of~~
13 ~~rulemaking pursuant to Section 120.54(5), F.S., the Division of~~
14 ~~Records and Reporting shall assign the petition an identification~~
15 ~~number. The Division of Records and Reporting shall publish~~
16 ~~notice of receipt of the petition in the next available issue of~~
17 ~~the Florida Administrative Weekly, and shall send a copy of the~~
18 ~~petition to the Administrative Procedures Committee.~~

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

25 ~~—— (b) If the Commission determines that rulemaking should not~~

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1 ~~be initiated, it shall deny the petition and issue to the~~
2 ~~petitioner a written statement setting forth, with particularity,~~
3 ~~the reasons for such denial.~~

4 ~~—— (e) If the Commission determines that the petition should be~~
5 ~~granted, it shall initiate rulemaking in accordance with Chapter~~
6 ~~120, F.S.~~

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

10 Specific Authority: 120.53, F.S.

11 Law Implemented: 120.53, F.S.

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

13 25-22.014 Rulemaking Materials.

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

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

19 ~~—— (b) A detailed written statement justifying the proposed~~
20 ~~rule;~~

21 ~~—— (c) A copy of the economic impact statement required by 5~~
22 ~~120.54, F.S.;~~

23 ~~—— (d) A statement comparing the proposed rule with any~~
24 ~~applicable federal rules, regulations or standards, or a~~
25 ~~statement that no comparable federal standards exist;~~

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1 ~~(c) The published notice.~~

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

5 Specific Authority: 120.53, F.S.

6 Law Implemented: 120.53, F.S.

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

8 25-22.015 Rulemaking Proceeding -- No Hearing.

9 ~~When no hearing is requested in writing, and when the~~
10 ~~Commission chooses not to initiate a hearing on its own, the~~
11 ~~Commission may direct that the proposed rule be filed with the~~
12 ~~Department of State no less than twenty one (21) days following~~
13 ~~notice.~~

14 Specific Authority: 120.53, F.S.

15 Law Implemented: 120.53, F.S.

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

17 25-22.016 Rulemaking Proceeding -- Hearing.

18 ~~(1) If the proposed rule does not relate exclusively to~~
19 ~~organization, practice, or procedure, the Commission shall~~
20 ~~provide, upon written request, a public hearing for presentation~~
21 ~~of evidence, argument, and oral statements, within reasonable~~
22 ~~conditions and limitations imposed by the Commission to avoid~~
23 ~~duplication, irrelevant comments, unnecessary delay, or~~
24 ~~disruption of the proceeding. Written statements may be submitted~~
25 ~~to the Commission, if it conducts the public hearing, within~~

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1 ~~seven days following the conclusion of the hearing by any person~~
2 ~~participating in the proceeding, and such statements shall be~~
3 ~~made a part of the record.~~

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

8 ~~— (3) The Commission may take official recognition of any~~
9 ~~material that is of common and general knowledge, authoritatively~~
10 ~~well settled and free from uncertainty. If the material is~~
11 ~~officially recognized by the Commission, it is deemed to be~~
12 ~~admissible without the necessity of the offering person~~
13 ~~presenting evidence. This material shall be part of the record~~
14 ~~and all affected persons shall be given a reasonable opportunity~~
15 ~~to examine and offer written comments and argument in opposition.~~

16 ~~— (4) Upon written request of any affected person, the~~
17 ~~Commission shall cause to be made a transcript of the~~
18 ~~proceedings, and copies of the transcript of the proceeding shall~~
19 ~~be available to the public. Cost of preparing the transcript and~~
20 ~~having the proceeding recorded shall be paid by the requesting~~
21 ~~person. A copy of the transcript shall be available to the public~~
22 ~~at cost. However, if the Commission on its own decides to record~~
23 ~~the proceeding and have a transcript made, a copy of the~~
24 ~~transcript shall be made available to any person at cost. If the~~
25 ~~Commission is not going to provide a court reporter, it shall~~

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1 ~~notify each person who has requested a hearing.~~

2 ~~— (5) The Commission, one or more members thereof, or any~~
3 ~~staff member designated by the Commission may preside at a~~
4 ~~hearing held pursuant to Section 120.54(3), F.S. If a single~~
5 ~~Commissioner or staff member serves as presiding officer at such~~
6 ~~hearing, any person participating in the proceeding may submit a~~
7 ~~written statement to the presiding officer for inclusion in the~~
8 ~~record within seven days following conclusion of the hearing. If~~
9 ~~the presiding officer determines that time permits, he may~~
10 ~~distribute a final recommended version of the rule to all persons~~
11 ~~participating at the hearing and shall accept any exceptions to~~
12 ~~the final recommended version submitted by such persons within~~
13 ~~ten days of its distribution, or within such other time as the~~
14 ~~presiding officer designates. The presiding officer shall prepare~~
15 ~~a summary of the hearing and recommendation for changes in the~~
16 ~~proposed rule to the Commission for final action.~~

17 ~~— (6) (a) At any time prior to the conclusion of a public~~
18 ~~hearing conducted under the provisions of Section 120.54(3), any~~
19 ~~person may request a hearing pursuant to § 120.54(16), F.S. In~~
20 ~~doing so, he must assert that his substantial interests will be~~
21 ~~affected by rulemaking, and he must affirmatively demonstrate~~
22 ~~that the rulemaking proceedings do not provide an adequate~~
23 ~~opportunity to protect his substantial interests. He must request~~
24 ~~that the hearing be conducted under the provisions of § 120.57 to~~
25 ~~the extent necessary to provide that opportunity and to protect~~

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1 ~~his substantial interests. The party shall file a petition with~~
2 ~~the person conducting the rulemaking proceeding or with the~~
3 ~~Commission substantiating the matters asserted by the party by~~
4 ~~setting forth specific facts supportive of the claim that the~~
5 ~~rulemaking proceedings will not provide an adequate opportunity~~
6 ~~to protect his substantial interests.~~

7 ~~—— (b) The Commission shall determine the merits of the~~
8 ~~petition and issue its order granting or denying it. The~~
9 ~~Commission may hold a hearing for this purpose pending the~~
10 ~~Commission's determination of the merits of the petition, the~~
11 ~~rulemaking hearing may continue. A person requesting a §~~
12 ~~120.54(16) hearing shall not be deemed to have waived that~~
13 ~~request by his continued participation in the rulemaking hearing.~~

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

17 ~~—— (d) When a petition for a hearing under the provisions of~~
18 ~~Section 120.57 is granted, the rulemaking proceeding shall be~~
19 ~~suspended. Upon the conclusion of the Section 120.57 proceeding,~~
20 ~~the rulemaking proceeding shall be resumed.~~

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

25 ~~—— (f) Unless the Commission rejects the request at the time~~

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1 ~~the right is asserted, the Commission shall publish notice in the~~
2 ~~Florida Administrative Weekly that a petition has been filed. The~~
3 ~~notice shall contain sufficient information to advise~~
4 ~~substantially affected persons of the matters asserted in the~~
5 ~~petition and any proceedings to be held on the petition.~~

6 Specific Authority: 120.53, F.S.

7 Law Implemented: 120.53, F.S.

8 History--New 12/21/81, Amended 10/23/83, Formerly 25-22.16₁

9 Repealed _____.

10 25-22.017 Rulemaking Proceeding -- Adoption.

11 (1) At a public meeting, the Commission shall consider the
12 record, the proposed rule, timely exceptions to the presiding
13 officer's final recommended version, if permitted, and the
14 recommendation of the presiding officer. The Commission may also
15 question staff and other persons as part of its deliberations
16 prior to adopting, rejecting or modifying the proposed rule.

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

23 ~~(3) Where a variance from a rule is requested, the~~
24 ~~Commission shall treat the request as a petition for a § 120.57,~~
25 ~~F.S., hearing. Unless waived by all parties, the provisions of §~~

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1 ~~120.57(1), F.S., and Part IV of these rules shall apply whenever~~
2 ~~the proceeding involves a disputed issue of material fact. In~~
3 ~~cases where the provisions of § 120.57(1), F.S., do not apply,~~
4 ~~the provisions of § 120.57(2), (3), F.S., shall be followed.~~

5 Specific Authority: 350.127(2) ~~120.53~~, F.S.

6 Law Implemented: 120.525, 120.54(3) ~~120.53~~, F.S.

7 History--New 12/21/81, Amended 10/25/83, Formerly 25-22.17₁

8 Amended .

9 25-22.018 Emergency Rule Adoption.

10 ~~(1) The Commission may adopt an emergency rule if+~~

11 ~~— (a) The Commission finds that immediate danger to the public~~
12 ~~health, safety and welfare exists which requires immediate~~
13 ~~Commission action; and~~

14 ~~— (b) The Commission complies with the requirements of §~~
15 ~~120.54(9)(a)3., F.S.~~

16 ~~— (2) Unless it defeats the purpose of an emergency rule, the~~
17 ~~Commission should notify major wire services and notice all~~
18 ~~affected persons before adopting an emergency rule. The~~
19 ~~Commission shall permit, upon request, all affected persons to~~
20 ~~present testimony, evidence, and submit written statements.~~

21 ~~— (3) Upon the request of any affected person, the commission~~
22 ~~shall cause a transcript to be made of the proceeding and shall~~
23 ~~compile a record, consisting of the transcript, copies of the~~
24 ~~notice and statement filed with the Department of State pursuant~~
25 ~~to subsection (1) above, and any other matter or information~~

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1 ~~filed in writing with the Commission and shall provide~~
2 ~~substantially the following information:~~

3 ~~Petition for Declaratory Statement~~

4 ~~(a) Name of Petitioner _____~~

5 ~~(b) Address of Petitioner _____~~

6 ~~(c) Name of Agency _____~~

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

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

12 _____

13 ~~Signature of Petitioner~~

14 _____

15 ~~Address~~

16 ~~Date _____~~

17 ~~Specific Authority: 120.53, F.S.~~

18 ~~Law Implemented: 120.53, F.S.~~

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

20 ~~25-22.021 Purpose and Use of Declaratory Statement.~~

21 ~~A declaratory statement is a means for resolving a~~
22 ~~controversy or answering questions or doubts concerning the~~
23 ~~applicability of any statutory provision, rule or order as it~~
24 ~~does, or may, apply to petitioner in his or her particular~~
25 ~~circumstances only. The potential impact upon petitioner's~~

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1 ~~interests must be alleged in order for petitioner to show the~~
2 ~~existence of a controversy, question or doubt.~~

3 Specific Authority: 120.53, F.S.

4 Law Implemented: 120.53, F.S.

5 History--New 12/21/81, Formerly 25-22.21, Repealed.
6 25-22.022 Disposition.

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

12 ~~(2) A Commission order shall be rendered as prescribed in §~~
13 ~~120.59, FS.~~

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

18 Specific Authority: 120.53, F.S.

19 Law Implemented: 120.53, F.S.

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

21 PART IV DECISIONS DETERMINING SUBSTANTIAL INTERESTS

22 Subpart A General Provisions

23 25-22.025 Scope and Title of Rules.

24 ~~This part shall apply in all proceedings in which~~
25 ~~substantial interests of a party are determined by the~~

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1 ~~Commission. This part shall be construed to secure the just,~~
2 ~~speedy, and inexpensive determination of every proceeding.~~
3 ~~Specifically, this part applies to all proceedings under §~~
4 ~~120.57, FG., as well as those initiated under § 120.60 or~~
5 ~~120.54(16), FG., which are required to be conducted in accordance~~
6 ~~with § 120.57 FG. This part does not apply to rulemaking, except~~
7 ~~as provided by § 120.54(16), FG. Nor does this part apply to~~
8 ~~Commission inquiries or investigations or to determinations of~~
9 ~~probable cause preliminary to Commission action.~~

10 Specific Authority: 120.53, F.S.

11 Law Implemented: 120.53, F.S.

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

13 25-22.026 Parties.

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

22 ~~— (2) If it appears that the determination of the rights of~~
23 ~~parties in a proceeding will necessarily involve a determination~~
24 ~~of the substantial interests of persons who are not parties, the~~
25 ~~presiding officer may, upon motion of a party, or upon his or her~~

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1 ~~own initiative enter an order requiring that the absent person be~~
2 ~~notified of the proceeding and be given an opportunity to be~~
3 ~~joined as a party of record.~~

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

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

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

25 Specific Authority: 120.53, F.S.

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1 Law Implemented: 120.53, F.S.

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

3 Repealed.

4 25-22.028 Filing, Number of Copies ~~Service of Documents, and~~
5 ~~Computation of Time.~~

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

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

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1 upon a party pursuant to these rules, its original and the
2 appropriate copies, or, in the case of interrogatories or
3 production of documents, a notice of service, shall be filed with
4 the Division no later than 5 days after service.

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~~
15 ~~date of filing. In the event that the parties are so numerous~~
16 ~~that this requirement is onerous, the Commission on motion may~~
17 ~~limit the number of copies to be served. Service by mail shall be~~
18 ~~completed 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~~
24 ~~hand delivery or by mail to the last known address. Delivery of a~~
25 ~~copy within this rule shall mean handing it to the attorney or to~~

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1 | ~~the party, or leaving it at the party's or attorney's usual~~
2 | ~~office with the clerk or other person in charge or if there is~~
3 | ~~no one in charge, leaving it in a conspicuous place within the~~
4 | ~~office, or if the office is closed, leaving it at the party's or~~
5 | ~~attorney's usual place of abode with some person of the family~~
6 | ~~above fifteen years of age and informing that person of the~~
7 | ~~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 | Signature²

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.G., shall be filed within the time specified by~~
22 | ~~statute. Any action required by a Commission order shall be~~
23 | ~~completed on the 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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1 ~~officer, or by any applicable statute, the day of the act from~~
2 ~~which the designated period of time begins to run shall not be~~
3 ~~included. The last day of the period shall be included unless it~~
4 ~~is a Saturday, Sunday or legal holiday in which event the period~~
5 ~~shall run until the end of the next day which is neither a~~
6 ~~Saturday, Sunday, or legal holiday. As used in these rules, legal~~
7 ~~holiday means those days designated in § 110.117, F.S., and any~~
8 ~~other day the Agency's offices are closed.~~

9 Specific Authority: 350.01(7), 350.127(2) ~~120-53~~, F.S.

10 Law Implemented: 120.569, 120.57 ~~120-53~~, F.S.

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

13 25-22.029 Point of Entry Into Proposed Agency Action Proceedings.

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

19 ~~(1)(2)~~ After agenda conference, the Division of Records and
20 Reporting shall issue written notice of the proposed agency
21 action (PAA), advising all parties of record that they have 21
22 days after issuance of the notice in which to file a request for
23 a § 120.569 or 120.57 hearing. ~~For good cause shown the~~
24 ~~Commission may provide that~~ The time for requesting a § 120.569
25 or 120.57 hearing shall be 14 days from issuance of the notice

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

7 ~~(2)(3)~~ The Commission ~~may publish notice of its proposed~~
8 ~~agency action in the Florida Administrative Weekly or newspapers~~
9 ~~of general circulation in the area affected by its action and may~~
10 will require a utility to publish notice of the decision in
11 newspapers of general circulation in its service area if the
12 Commission finds that it is necessary in order to afford adequate
13 notice. Any such publication may be used in establishing the
14 date of receiving notice.

15 ~~(3)(4)~~ One whose substantial interests may or will be
16 affected by the Commission's proposed action may file a petition
17 for a § 120.569 or 120.57 hearing, in the form provided by Rule
18 ~~28-106.201, F.A.C. 25-22-036.~~ Any such petition shall be filed
19 within the time stated in the notice issued pursuant to
20 subsection ~~(1)(2)~~ of this rule. ~~However, when a person has not~~
21 ~~been served notice of the decision and notice has been published,~~
22 ~~such person may file a petition within 14 days after publication~~
23 ~~of the notice.~~

24 ~~(5)~~ ~~Any person who receives notice and who fails to file a~~
25 ~~timely request for a § 120.57 hearing shall have waived his or~~

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1 ~~her right to request a hearing on the decision.~~

2 ~~----- (6) In the absence of a timely request for a § 120.57~~

3 ~~hearing, and unless otherwise provided by a Commission order, the~~
4 ~~proposed action shall become effective upon the expiration of the~~
5 ~~time within which to request a hearing.~~

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

7 Law Implemented: 120.569, 120.57, 364.05, 366.06, 367.081,
8 367.081(4)(a), 367.0817 ~~120.53~~, F.S.

9 History--New 12/21/81, Formerly 25-22.29, Amended 7/8/92,

10
11 25-22.034 Discovery.

12 ~~Parties may obtain discovery through the means and in the~~
13 ~~manner provided in Rules 1.280 through 1.400, Florida Rules of~~
14 ~~Civil Procedure. The presiding officer may issue appropriate~~
15 ~~orders to effectuate the purposes of discovery and to prevent~~
16 ~~delay and may impose appropriate sanctions under Rule 1.380,~~
17 ~~Florida Rules of Civil Procedure, except that such sanctions may~~
18 ~~not include contempt or the award of expenses unless specifically~~
19 ~~authorized by statute. Sanctions may also include dismissal under~~
20 ~~Rule 25-22.042.~~

21 Specific Authority: 120.53, F.S.

22 Law Implemented: 120.53, F.S.

23 History--New 12/21/81, Formerly 25-22.34, Repealed .

24 25-22.035 Miscellaneous Matters.

25 ~~(1) Presiding Officer: As used herein "presiding officer"~~

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

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

17 ~~(3) Procedure: Generally, the Florida Rules of Civil~~
18 ~~Procedure shall govern in proceedings before the Commission under~~
19 ~~this part, except that the provisions of these rules supersede~~
20 ~~the Florida Rules of Civil Procedure where conflict arises~~
21 ~~between the two.~~

22 Specific Authority: 120.53, F.S.

23 Law Implemented: 120.53, F.S.

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

25 25-22.0355 Assignment of Formal Proceedings.

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1 ~~particular case may be filed as authorized by Section 350.01(6),~~
2 ~~F.S.~~

3 ~~— (a) Applicants, petitioners or eligible parties filing a~~
4 ~~pleading who desire a hearing before the full Commission shall so~~
5 ~~specify in their initial pleading.~~

6 ~~— (b) Other persons eligible to make such a request shall do~~
7 ~~so within 15 days of notice of filing of the application or~~
8 ~~petition, or rendition of an order suspending proposed rates of~~
9 ~~or of an order initiating a proceeding, whichever occurs first.~~

10 ~~In each case, these petitions/requests shall be disposed of by a~~
11 ~~majority of the Commission. Failure to file pleadings timely,~~
12 ~~and in the manner specified herein, may be considered just cause~~
13 ~~for denial of such pleadings.~~

14 ~~— (5) In cases filed pursuant to the provisions of~~
15 ~~Subsections 323.08(5), 364.05(4), 366.06(4), or 367.081(5), the~~
16 ~~initial decision whether to suspend all or part of the rates as~~
17 ~~filed shall be made by the full Commission, since whether a~~
18 ~~hearing will be required cannot be determined until that decision~~
19 ~~is made.~~

20 ~~— (6) Assignment of a proceeding to a panel does not preclude~~
21 ~~delegation of prehearing conferences or similar procedural~~
22 ~~matters to a single member of the panel.~~

23 Specific Authority: 120.53, F.S.

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

25 History: Transferred from 25-2.501 and Amended 12/21/81.

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1 9/20/83, formerly 25-22.355, Repealed

2 Subpart B Prehearing Procedures

3 25-22.036 Initiation of Formal Proceedings.

4 ~~(1) Applicability. This section shall apply to all §~~
5 ~~120.57(1) and (2) hearings including a hearing requested by a~~
6 ~~substantially affected person subsequent to proposed agency~~
7 ~~action. This rule shall not apply to the extent that a proceeding~~
8 ~~is governed by rules or statutes that prescribe alternative~~
9 ~~procedures.~~

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

16 (1)(3) Application. An application is appropriate when a
17 person seeks authority from the Commission to engage in an
18 activity subject to Commission jurisdiction.

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

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

23 ~~(b) A substantially affected person seeks Commission action~~
24 ~~to change the rates or service of a person subject to Commission~~
25 ~~jurisdiction, or seeks some other Commission action not otherwise~~

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1 ~~specified in these rules.~~

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

7 (3)~~(6)~~ Orders and Notices. Upon its own motion, the
8 Commission may issue an order or notice initiating a proceeding.
9 Such order or notice shall be served upon all persons named
10 therein. The Commission may also transmit notice of its action to
11 other persons requesting such notice, and may publish such notice
12 in appropriate newspapers of general circulation and the Florida
13 Administrative Weekly.

14 (4)~~(7)~~ Form and Content.

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

- 17 ~~1. The name of the Commission and the Commission's docket~~
18 ~~number, if known;~~
- 19 ~~2. The name and address of the applicant, complainant or~~
20 ~~petitioners, and an explanation of how his or her~~
21 ~~substantial interests will be or are affected by the~~
22 ~~Commission determination;~~
- 23 ~~3. A statement of all known disputed issues of material~~
24 ~~fact. If there are none, the petition must so indicate;~~
- 25 ~~4. A concise statement of the ultimate facts alleged, as~~

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1 well as the rules and statutes which entitle the
2 petitioner to relief,

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

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

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

10 (b) ~~(e)~~ Complaint. Each complaint, in addition to the
11 requirements of paragraph (a) above shall also contain:

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

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

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

25 ~~(f) Petition on Proposed Agency Action. When a petition is~~

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1 ~~filed in response to proposed agency action the petition shall~~
2 ~~also contain a statement of when and how notice of the~~
3 ~~Commission's proposed agency action was received.~~

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

12 ~~—— (9) Disposition.~~

13 ~~—— (a) Where an application, petition, or complaint has been~~
14 ~~filed, and Commission action has not yet been proposed, the~~
15 ~~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. Issue notice of proposed agency action where a rule or~~
20 ~~statute does not mandate a hearing as a matter of course, and~~
21 ~~after the time for responsive pleadings has passed;~~

22 ~~—— 3. Set the matter for hearing before the Commission, or~~
23 ~~member thereof, or request that a hearing officer from~~
24 ~~the Division of Administrative Hearings be assigned to~~
25 ~~conduct the hearing. The assignment of a matter for~~

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1 ~~hearing shall be pursuant to Rule 25-22.0355,~~
2 ~~4. Dispose of the matter as provided in § 120.57(2).~~
3 ~~(b) Where a petition on proposed agency action has been~~
4 ~~filed, the Commission may:~~
5 ~~1. Deny the petition if it does not adequately state,~~
6 ~~substantial interest in the Commission determination or~~
7 ~~if it is untimely.~~
8 ~~2. Grant the petition and determine if a Section 120.57(1)~~
9 ~~hearing or a Section 120.57(2) hearing is required.~~
10 ~~(c) The Commission shall promptly give written notice to all~~
11 ~~parties of the action taken on the petition, and shall state with~~
12 ~~particularity its reasons therefore.~~
13 ~~(d) If the Commission elects to request that a Hearing~~
14 ~~Officer of the Division of Administrative Hearings be assigned to~~
15 ~~conduct the hearing, the Commission shall forward the initial~~
16 ~~pleading, and all materials filed with the Commission, to the~~
17 ~~Division of Administrative Hearings, and shall notify all parties~~
18 ~~of its action.~~
19 ~~(10) Service of Initial Pleadings. Where a petition seeks~~
20 ~~relief against a person, or a complaint is filed, a copy of the~~
21 ~~petition or complaint shall be served on all persons named~~
22 ~~therein. Where a petition on proposed agency action is filed, a~~
23 ~~copy shall be served on all parties of record.~~
24 Specific Authority: 350.01(7), 350.127(2) 120.53 F.S.
25 Law Implemented: 120.569, 120.57, 364.035, 364.05, 364.057.

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1 364.335, 364.337, 366.04, 366.06, 366.071, 366.076, 366.8255,
2 367.031, 367.045, 367.071, 367.081, 367.0814, 367.0817, 367.082,
3 367.0822, 367.091, 367.101, 367.171, ~~120-52~~ F.S.
4 History--New 12/21/81, Formerly 25-22.36, Amended .
5 25-22.037 Answers and Motions.

6 ~~(i) Answer. A respondent or intervenor may file an answer~~
7 ~~within twenty (20) days of service of the petition. An answer to~~
8 ~~an order or notice by the Commission which asserts a violation of~~
9 ~~a statute, rule or order, or initiating a formal proceeding, may~~
10 ~~be filed within the time stated in the order or notice, or in the~~
11 ~~absence of a stated time, within twenty (20) days of issuance of~~
12 ~~the order or notice.~~

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

15 ~~—— (a) Motions in opposition to an order, notice, complaint or~~
16 ~~petition, which may be filed by any party, include motions to~~
17 ~~dismiss, to strike, and for a more definite statement. Such~~
18 ~~motions shall be filed within the time provided for filing an~~
19 ~~answer. In the event such a motion is denied, an answer or other~~
20 ~~responsive pleading may be filed within 10 days after issuance of~~
21 ~~an order denying the motion. Any ruling on such a motion by a~~
22 ~~presiding officer other than the Commission shall be incorporated~~
23 ~~in a recommended order, and will be finally disposed of only by~~
24 ~~the Commission.~~

25 ~~—— (b) All motions shall be in writing unless made on the~~

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1 ~~record during a hearing, and shall fully state the action~~
2 ~~requested and the grounds relied upon. In proceedings before the~~
3 ~~Commission, the original written motion shall be filed with the~~
4 ~~Division of Records and Reporting. In proceedings before the~~
5 ~~Division of Administrative Hearings, the original written motion~~
6 ~~shall be filed with the presiding officer. The presiding officer~~
7 ~~shall conduct such proceedings and make such orders as are deemed~~
8 ~~necessary to dispose of issues raised by motions. Every written~~
9 ~~motion may be accompanied by, or included in, a written~~
10 ~~memorandum stating the grounds upon which the motion is based.~~
11 ~~Other parties to a proceeding may, within seven (7) days after~~
12 ~~service of a written motion, file written memoranda in~~
13 ~~opposition.~~

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

19 ~~—— (4) Default. Where an order of initial pleading has been~~
20 ~~served on a party, and such order or initial pleading seeks a~~
21 ~~penalty or other specific relief against a person subject to~~
22 ~~Commission jurisdiction, failure to file a timely answer or~~
23 ~~motion in response thereto shall constitute a default. The~~
24 ~~Division of Records and Reporting, upon determining that a~~
25 ~~default has occurred, shall so indicate in the docket file, and~~

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1 ~~shall return all papers filed by the defaulting party, except~~
2 ~~those seeking to set aside the default. A default will be set~~
3 ~~aside only upon a showing of a failure to serve the order or~~
4 ~~initial pleading, fraud, or lack of subject matter jurisdiction~~
5 ~~or other good cause as determined by the Commission.~~

6 Specific Authority: 120.53, F.S.

7 Law Implemented: 120.53, F.S.

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

9 25-22.0375 Pleadings.

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

13 ~~----- (2) Pleadings shall refer to the docket number assigned by~~
14 ~~the Division of Records and Reporting.~~

15 ~~----- (3) Pleadings shall be served on all parties and the~~
16 ~~original and seven copies of all pleadings shall be submitted to~~
17 ~~the Division of Records and Reporting. However, initial pleadings~~
18 ~~for increases in rates, except rate increases by water and~~
19 ~~wastewater utilities, shall be filed with twenty (20) copies. The~~
20 ~~requirement of twenty (20) copies shall apply to all exhibits~~
21 ~~appended to the original petition, prepared testimony and~~
22 ~~exhibits, briefs and other supplemental data requested by the~~
23 ~~Commission.~~

24 Specific Authority: 120.53, F.S.

25 Law Implemented: 120.53, F.S.

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

2 25-22.038 Prehearing Officer; Prehearing Statement; Prehearing
3 Conferences; and Prehearing Order.

4 ~~(1) Prehearing Officer. For the purpose of this chapter,~~
5 ~~the words "prehearing officer" shall refer to a member of a~~
6 ~~commission panel assigned to the case who has been designated by~~
7 ~~the chairman as a prehearing officer. When the commissioner~~
8 ~~designated as the prehearing officer becomes unavailable, the~~
9 ~~following persons may act as prehearing officer in the following~~
10 ~~order of availability: any member of the panel assigned to the~~
11 ~~proceeding, in order of seniority, or the commission chairman. A~~
12 ~~commissioner acting as prehearing officer may, in his or her~~
13 ~~discretion, refer any matter to the panel assigned to the case~~
14 ~~for a decision.~~

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

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- 1 ~~—— (a) to identify all known witnesses that may be called and~~
2 ~~indicate the subject matter of their testimony;~~
- 3 ~~—— (b) to identify all known exhibits, identify their~~
4 ~~contents, and indicate whether they may be identified on a~~
5 ~~composite basis;~~
- 6 ~~—— (c) to provide a statement of the party's basic position in~~
7 ~~the proceeding;~~
- 8 ~~—— (d) to provide a statement of each question of fact the~~
9 ~~party considers at issue;~~
- 10 ~~—— (e) to provide a statement of each question of law the~~
11 ~~party considers at issue;~~
- 12 ~~—— (f) to provide a statement of each policy question the~~
13 ~~party considers at issue;~~
- 14 ~~—— (g) to provide a statement of the party's position on each~~
15 ~~issue identified pursuant to paragraphs (d), (e), and (f);~~
- 16 ~~—— (h) to provide a statement of issues that have been~~
17 ~~stipulated to by the parties;~~
- 18 ~~—— (i) to provide a statement of all pending motions or other~~
19 ~~matters the party seeks action upon;~~
- 20 ~~—— (j) to provide a statement as to any requirement set forth~~
21 ~~in the prehearing order that cannot be complied with, and the~~
22 ~~reasons therefore;~~
- 23 ~~—— (k) to include such other matters in the prehearing~~
24 ~~statement as will aid the Commission in achieving an orderly~~
25 ~~disposition of the proceeding.~~

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

5 ~~—— (a) Upon 7 days written notice, the prehearing officer may~~
6 ~~conduct or request the parties to hold one or more prehearing~~
7 ~~conferences for the purpose of hearing arguments on pending~~
8 ~~motions, clarifying and simplifying issues, discussing the~~
9 ~~possibility of settlement of the issues, examining exhibits and~~
10 ~~documents, exchanging names and addresses, and resolving other~~
11 ~~procedural matters.~~

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

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

19 ~~—— (4) Prehearing Order. The prehearing officer may issue a~~
20 ~~prehearing order which sets forth the issues in the case, as well~~
21 ~~as the positions of the parties, and addresses other matters as~~
22 ~~may aid in the conduct of the hearing and the efficient and fair~~
23 ~~disposition of the proceeding. Issues raising primarily~~
24 ~~questions of fact shall be stated separately from issues raising~~
25 ~~solely legal questions.~~

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1 ~~— (a) The prehearing order shall control the conduct of the~~
2 ~~parties in the case to the extent the matter is addressed in the~~
3 ~~order. Except for good cause, an objection to any aspect of the~~
4 ~~prehearing order shall be raised at the start of or prior to the~~
5 ~~hearing.~~

6 ~~— (b) When an order has been issued that requires prehearing~~
7 ~~statements to list issues and positions, the prehearing officer~~
8 ~~has conducted a final prehearing conference wherein issues and~~
9 ~~positions were discussed, and a prehearing order has been issued~~
10 ~~which sets forth the issues in the case and the parties'~~
11 ~~positions thereon, the following shall apply:~~

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

16 ~~2. Any issue not raised by a party prior to the issuance~~
17 ~~of a prehearing order shall be waived by that party,~~
18 ~~except for good cause shown. A party seeking to raise~~
19 ~~a new issue after the issuance of the prehearing order~~
20 ~~shall demonstrate that he or she was unable to identify~~
21 ~~the issue because of the complexity of the matter,~~
22 ~~discovery or other prehearing procedures were not~~
23 ~~adequate to fully develop the issues, due diligence was~~
24 ~~exercised to obtain facts touching on the issue,~~
25 ~~information obtained subsequent to the issuance of the~~

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1 ~~prehearing order was not previously available to enable~~
2 ~~the party to identify the issue, and introduction of~~
3 ~~the issue could not be to the prejudice or surprise of~~
4 ~~any party. Specific reference shall be made to the~~
5 ~~information received, and how it enabled the party to~~
6 ~~identify the issue,~~

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

22 ~~(e) When an issue and position have been properly~~
23 ~~identified any party may adopt that issue and position in his or~~
24 ~~her post hearing statement.~~

25 Specific Authority: 120.53, F.S.

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1 Law Implemented: 120.53, F.S.

2 History: Transferred from 25-2.68 and Amended 12/21/81, formerly
3 25-22.38, Amended 9/3/95, Repealed.
4 25-22.0405 Notices of Public Hearings.

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

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

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

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

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

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

7 Law Implemented: 120.569, 120.57, 364.03, 364.035(1), 364.07,
8 364.14, 364.15, 364.16, 364.27, 366.04, 366.05, 367.081, 367.111,
9 F.S.

10 History--New 1/27/72, Formerly 25-2.981, Amended 12/21/81,
11 9/27/83,_____.

12 25-22.0406 Notice and Public Information on General Rate Increase
13 Requests by Electric, Gas and Telephone Companies.

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

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

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

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

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

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

- 18 1. A summary of the section of the MFRs showing a comparison
19 of the present and proposed rates for major services;
- 20 2. A statement of the anticipated major issues involved in
21 the rate case;
- 22 3. A copy of the executive summary filed with the MFRs;
- 23 4. A description of the ratemaking process and the time
24 schedule established for the rate case; and
- 25 5. The locations at which complete MFRs are available.

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

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

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

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

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

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

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

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

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1 the Commission or its staff prior to publication.

2 (7) When the Commission issues proposed agency action and a
3 hearing is subsequently held, the utility shall give written
4 notice of the hearing to its customers at least 14 days in
5 advance of the hearing. This notice shall be approved by the
6 Commission or its staff prior to distribution.

7 (8) After the Commission's issuance of an order granting or
8 denying a rate change, the utility shall give notice to its
9 customers of the order and the revised rates. The notice shall be
10 approved in advance by the Commission or its staff and
11 transmitted to the customers with the first bill containing the
12 new rates.

13 Specific Authority: 350.127(2), 366.05, F.S.

14 Law Implemented: 120.569, 120.57, 364.035(1), 364.01(4),
15 364.04(3)(4), 364.05(1)(2), 364.19, 366.03, 366.041(1),
16 366.05(1), 366.06(1), F.S.

17 History--New 9/27/83, Formerly 25-22.406, Amended 5/27/93,
18 _____.

19 25-22.0407 Notice of and Public Information for General Rate
20 Increase Requests by Water and Wastewater Utilities.

21 (1) This rule applies to all requests for general rate
22 increases made by water and wastewater utilities.

23 (2) Upon filing a petition for a general rate increase, the
24 utility shall mail a copy of the petition to the chief executive
25 officer of the governing body of each municipality and county

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

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

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

24 | (b) Within 30 days after the official date of filing
25 | established by the Commission, the utility shall mail a copy of

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1 its rate case synopsis to the chief executive officer of the
2 governing body of each municipality and county within the service
3 areas included in the rate request.

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

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

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

10 3. A statement of any anticipated major issues involved in
11 the rate case;

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

14 5. The locations where complete MFRs are available.

15 (5)(a) Within 90 days after the official date of filing
16 established by the Commission, the utility shall provide, in
17 writing, an initial customer notice to all customers within the
18 service areas included in the rate request and to all persons in
19 the same service areas who have filed a written request for
20 service or who have been provided a written estimate for service
21 within the 12 calendar months prior to the month the petition is
22 filed.

23 (b) The initial customer notice shall be approved by
24 Commission staff prior to distribution and shall include the
25 following:

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- 1 1. The date the notice was issued;
- 2 2. A statement that the utility has filed a rate request
- 3 with the Commission and a statement of the general reasons for
- 4 the request;
- 5 3. A statement of the locations where copies of the MFRs,
- 6 petition, and rate case synopsis are available for public
- 7 inspection and the hours and days when inspection may be made;
- 8 4. The time schedule established for the case, including the
- 9 dates, times, and locations of any hearings scheduled;
- 10 5. A comparison of current rates and charges and the
- 11 proposed new rates and charges;
- 12 6. The utility's address, telephone number, and business
- 13 hours;
- 14 7. A statement that written comments regarding utility
- 15 service or the proposed rates and charges should be addressed to
- 16 the Director, Division of Records and Reporting, 2540 Shumard Oak
- 17 Boulevard, Tallahassee, Florida 32399-0870, and that such
- 18 comments should identify the docket number assigned to the
- 19 proceeding;
- 20 8. A statement that complaints regarding service may be made
- 21 to the Commission's Division of Consumer Affairs at the following
- 22 toll-free number: 1-800-342-3552; and
- 23 9. If the utility has not requested a change in its service
- 24 availability charges as part of its rate request, a statement
- 25 that the Commission will be reviewing the utility's service

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1 availability charges in the pending rate case and that the
2 Commission may adjust those charges.

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

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

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

18 (b) No less than 14 days and no more than 30 days prior to
19 the date of the hearing, in all cases, including those in which
20 the Commission has scheduled a service hearing, the utility shall
21 provide written notice of the date, time, location, and purpose
22 of the hearing to all customers within the service areas included
23 in the rate request. The notice shall be approved by Commission
24 staff prior to distribution. The notice shall be mailed to the
25 out-of-town address of all customers who have provided the

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1 utility with an out-of-town address.

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

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

14 (a) No less than 14 days and no more than 30 days prior to
15 the date of a customer meeting conducted by the Commission staff,
16 the utility shall provide written notice of the date, time,
17 location, and purpose of the customer meeting to all customers
18 within service areas designated by the Commission staff. The
19 notice shall be approved by Commission staff prior to
20 distribution. The notice shall be mailed to the out-of-town
21 address of all customers who have provided the utility with an
22 out-of-town address.

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

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1 above.

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

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

17 (b) No less than 14 days and no more than 30 days prior to
18 the date of a customer meeting conducted by the Commission staff,
19 the utility shall provide, in writing, a customer meeting notice
20 to all customers within its service area and to all persons in
21 the same service areas who have filed a written request for
22 service or who have been provided a written estimate for service
23 within the 12 calendar months prior to the month the petition is
24 filed.

25 (c) The customer meeting notice shall be approved by

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1 Commission staff prior to distribution and shall include the
2 following:

- 3 1. The date the notice was issued;
- 4 2. The time, date, location, and purpose of the customer
5 meeting;
- 6 3. A statement that the utility has applied for a
7 staff-assisted rate case and the general reasons for doing so;
- 8 4. A statement of the location where copies of the
9 application and staff reports are available for public inspection
10 and the times during which inspection may be made;
- 11 5. A comparison of current rates and charges and the
12 proposed new rates and charges;
- 13 6. The utility's address, telephone number, and business
14 hours;
- 15 7. A statement that written comments regarding utility
16 service or the proposed rates and charges should be addressed to
17 the Director, Division of Records and Reporting, 2540 Shumard Oak
18 Boulevard, Tallahassee, Florida 32399-0870, and that such
19 comments should identify the docket number assigned to the
20 proceeding;
- 21 8. A statement that complaints regarding service may be made
22 to the Commission's Division of Consumer Affairs at the following
23 toll-free number: 1-800-342-3552;
- 24 9. A statement that the Commission will be reviewing the
25 utility's service availability charges in the pending case and

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1 ~~noticed for the hearing.~~

2 Specific Authority: 120.53, F.S.

3 Law Implemented: 120.53, F.S.

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

5 25-22.042 Dismissal.

6 ~~The failure or refusal of a party to comply with any lawful~~
7 ~~order may be cause for dismissing the party from the proceeding.~~
8 ~~If a dismissal is entered against the party who has the burden of~~
9 ~~proof, the proceeding will be dismissed. If a dismissal is~~
10 ~~entered against a party who does not have the burden of proof,~~
11 ~~the party shall not be allowed to participate in the proceeding~~
12 ~~as a party.~~

13 Specific Authority: 120.53, F.S.

14 Law Implemented: 120.53, F.S.

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

16 Repealed.

17 Subpart C Conduct of Formal Hearings

18 25-22.045 Subpoenas.

19 ~~+~~ When the proceeding is before the Commission or member
20 thereof, subpoenas may be issued by the presiding officer or the
21 Division of Records and Reporting on subpoena forms supplied by
22 the Commission. When the proceeding is before an administrative
23 law judge ~~a hearing officer~~ of the Division of Administrative
24 Hearings, subpoenas may be issued by the Administrative Law Judge
25 ~~Hearing Officer~~.

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

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

13 ~~(4) A subpoena may be served by any person authorized by law~~
14 ~~to serve process or by any person who is not a party and who is~~
15 ~~of majority age. Service shall be made by delivering a copy~~
16 ~~thereof to the person named in the subpoena. Proof of service~~
17 ~~shall be made by affidavit of the person making service if~~
18 ~~service is not made by an officer authorized by law to do so.~~

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

22 Specific Authority: 350.127(2), F.S.

23 Law Implemented: 120.569, 120.57, 350.123, F.S.

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

25 Amended_____.

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1 25-22.046 Witnesses and Witness Fees.

2 ~~(1) All witnesses shall be sworn and subject to examination~~
3 ~~and cross examination.~~

4 ~~— (2) The presiding officer may allow members of the general~~
5 ~~public to appear as witnesses at a hearing, and to present oral~~
6 ~~or written communications without the necessity of being a party~~
7 ~~or intervenor. The presiding officer may set fair and reasonable~~
8 ~~conditions on such appearances, and the communications shall be~~
9 ~~subject to cross examination challenge and rebuttal.~~

10 ~~— (3) Witness fees shall be paid by the party at whose~~
11 ~~instance the witness is summoned. Witness fees shall be tendered~~
12 ~~at the time of service of a subpoena. Except in the case of~~
13 ~~state employees, the fees allowed shall be the same as those~~
14 ~~allowed by the circuit courts of the state. State employees~~
15 ~~shall be entitled to compensation at the rate provided under~~
16 ~~Section 112.061, F.S. This section shall not limit the fees of~~
17 ~~expert witnesses.~~

18 Specific Authority: 120 53, F.S.

19 Law Implemented: 120.53, F.S.

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

21 25-22.048 Evidence.

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

24 ~~— (2) Each party shall have the right: to present evidence~~
25 ~~relevant to the issues; to cross examine opposing witnesses; to~~

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1 ~~impeach any witness in accordance with 5-90.606, F.S., regardless~~
2 ~~of which party first call that witness to testify, and to rebut~~
3 ~~the evidence presented against it.~~

4 ~~(3) Any relevant evidence shall be admitted if it is the~~
5 ~~sort of evidence which is normally admissible in civil trials in~~
6 ~~Florida or which reasonably prudent persons are accustomed to~~
7 ~~relying upon in the conduct of their affairs. Hearsay evidence~~
8 ~~may be used to supplement or explain other evidence, but shall~~
9 ~~not be sufficient in itself to support a finding unless it would~~
10 ~~be admissible over objection in civil actions. Irrelevant and~~
11 ~~unduly repetitious evidence may be excluded.~~

12 ~~(4) (a) Evidence may be submitted in the form of written~~
13 ~~testimony. Such testimony shall be typed on standard 8 1/2 x 11~~
14 ~~inch transcript quality paper, double spaced, with 25 numbered~~
15 ~~lines, and a sufficient left margin to allow for binding. A~~
16 ~~presiding officer may require all parties to prefile testimony~~
17 ~~and shall provide reasonable notice to the parties of the date~~
18 ~~testimony shall be prefiled. This rule shall not limit the~~
19 ~~presentation of reports or written analyses, where reasonable.~~

20 ~~(b) Upon providing copies of written testimony to all~~
21 ~~parties of record, a witness may enter that testimony into the~~
22 ~~record as though read, at which time the witness shall become~~
23 ~~subject to cross examination and his or her testimony shall~~
24 ~~become subject to evidentiary rules set out in subsection (3) of~~
25 ~~this rule.~~

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1 Specific Authority: 120.53, F.S.

2 Law Implemented: 120.53, F.S.

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

4 25-22.049 Recordation.

5 ~~The Commission shall have the responsibility of preserving~~
6 ~~the testimony at formal proceedings and hearings. Proceedings~~
7 ~~shall be reported by certified court reporter or by recording~~
8 ~~instruments. Any party to a hearing may, at its own expense,~~
9 ~~provide a certified court reporter if the Commission does not. If~~
10 ~~the Commission decides not to have the proceedings reported by a~~
11 ~~court reporter, it shall provide the parties with adequate notice~~
12 ~~of its decision. The presiding officer may provide a certified~~
13 ~~court reporter. At hearings during which the services of a court~~
14 ~~reporter have been retained any party who wishes a written~~
15 ~~transcript of the testimony shall order the same at its own~~
16 ~~expense. If a court reporter records the proceedings, the~~
17 ~~recordation shall become the official transcript.~~

18 Specific Authority: 120.53, F.S.

19 Law Implemented: 120.53, F.S.

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

21 Subpart D Post-hearing Procedures

22 25-22.056 Post-hearing Filings.

23 ~~(1) General Provisions.~~

24 ~~— (a) If a hearing under section 120.57, F.S., is conducted by~~
25 ~~a panel of two or more Commissioners or the full Commission, all~~

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1 ~~parties may submit proposed findings of fact, conclusions of law,~~
2 ~~and legal briefs on the issues within a time designated by the~~
3 ~~presiding officer.~~

4 ~~—— (b) If a hearing under section 120.57, F.S., is conducted by~~
5 ~~a Commissioner sitting as a hearing officer, all parties and~~
6 ~~staff may submit proposed findings of fact, conclusions of law,~~
7 ~~proposed recommended orders which shall include a statement of~~
8 ~~the issues, and exceptions to the proposed or recommended order,~~
9 ~~within the time and in the format designated by the hearing~~
10 ~~officer.~~

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

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

24 ~~—— (e) Requests for oral argument shall be filed in accordance~~
25 ~~with Rule 25-22.050, F.A.C.~~

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

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

9 ~~—— (b) Each proposed finding of fact shall be separately~~
10 ~~stated, numbered consecutively, and shall be a succinct statement~~
11 ~~not to exceed 3 sentences in length. Proposed findings of fact~~
12 ~~shall not contain mixed questions of fact and law. Each proposed~~
13 ~~finding of fact shall cite to the record, identifying the page~~
14 ~~and line of the transcript or exhibit that supports the~~
15 ~~particular finding. All proposed findings of fact which relate to~~
16 ~~a particular issue shall be grouped together and shall identify~~
17 ~~the issue number to which they relate. Any written statement that~~
18 ~~is not clearly designated as a proposed finding of fact shall be~~
19 ~~considered to be legal argument rather than proposed finding of~~
20 ~~fact.~~

21 ~~—— (3) Statement of Issues and Positions. In any proceeding~~
22 ~~where a prehearing order has been issued, and such prehearing~~
23 ~~order contains a statement of the issues as well as the positions~~
24 ~~of the parties therein, all post-hearing statements and other~~
25 ~~documents filed pursuant to this rule shall conform to the form~~

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1 ~~and content of the statement of the issues and positions.~~

2 ~~—— (a) Each party to a proceeding shall file a post hearing~~
3 ~~statement of issues and positions which shall include a summary~~
4 ~~of each position of no more than 50 words, set off with~~
5 ~~asterisks. If a party's position has not changed since the~~
6 ~~issuance of the prehearing order, the party's post hearing~~
7 ~~statement may simply restate the prehearing position; however, if~~
8 ~~the prehearing position is longer than 50 words it must be~~
9 ~~reduced to no more than 50 words. The 50 word limit may be~~
10 ~~modified for good cause shown. In the event that a new issue is~~
11 ~~identified by a party in a post hearing statement, that new issue~~
12 ~~shall be clearly identified as such, and a statement of position~~
13 ~~thereon shall be included. Any issue or position not included in~~
14 ~~a post hearing statement shall be considered waived.~~

15 ~~—— (b) A party is not required to file post hearing documents~~
16 ~~in addition to the post hearing statement, unless otherwise~~
17 ~~required by the presiding officer. If a brief is filed, each~~
18 ~~argument must be identified by the issue number to which it~~
19 ~~relates. In the event that a party fails to file a post hearing~~
20 ~~statement in conformance with (3) (a), and no other post hearing~~
21 ~~memorandum is filed which conforms to this rule, that party shall~~
22 ~~have waived all issues and may be dismissed from the proceeding.~~

23 ~~—— (4) Post hearing Filings When Hearing is Conducted by a~~
24 ~~Hearing Officer. If a hearing under section 120.57, F.S., is held~~
25 ~~before a Commissioner sitting as a hearing officer, the following~~

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1 ~~provisions shall apply in addition to (1)(b) through (3) of this~~
2 ~~rule. Subsection (b) of the following provisions also applies~~
3 ~~when the hearing has been conducted by the Division of~~
4 ~~Administrative Hearings.~~

5 ~~—— (a) Recommended or Proposed Order. The hearing officer~~
6 ~~shall, within 30 days after the hearing or receipt of the hearing~~
7 ~~transcript, whichever is later, file a recommended or proposed~~
8 ~~order which shall include a caption, time and place of hearing,~~
9 ~~appearances entered at the hearing, statement of the issue,~~
10 ~~findings of fact and conclusions of law separately stated, and~~
11 ~~recommendation for final Commission action.~~

12 ~~—— (b) Exceptions. Parties and staff may file exceptions to the~~
13 ~~recommended or proposed order with the Division of Records and~~
14 ~~Reporting within 14 days of service of the order, and shall serve~~
15 ~~copies of any such exceptions upon all parties of record and~~
16 ~~staff. Such exceptions shall fully set forth the error claimed~~
17 ~~and the basis in law and fact therefor, with exceptions to~~
18 ~~findings of fact supported by citations to the record. A party's~~
19 ~~failure to serve or file timely written exceptions shall~~
20 ~~constitute a waiver of any objections to the recommended or~~
21 ~~proposed order.~~

22 Specific Authority: 120.53, F.S.

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

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

25 Repealed.

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1 25-22.059 Final Orders.

2 ~~(1) If a hearing is conducted by the Commission, a final~~
3 ~~order shall be entered within ninety (90) days after the hearing~~
4 ~~or receipt of the hearing transcript, whichever is later. The~~
5 ~~final order shall include a caption, time and place of the~~
6 ~~hearing, appearances entered at the hearing, statement of the~~
7 ~~issues, findings of fact, conclusions of law, and statement of~~
8 ~~final Commission action.~~

9 ~~—— (2) If the final hearing has been conducted by other than~~
10 ~~the Commission, the Commission shall issue its final order within~~
11 ~~ninety (90) days of receipt of the recommended order. The~~
12 ~~recommended order shall be considered at a public meeting. This~~
13 ~~proceeding shall not be a de novo review, but shall be confined~~
14 ~~to the record submitted to the Commission together with the~~
15 ~~recommended order.~~

16 ~~—— (3) If a party files exceptions to a recommended order or~~
17 ~~submits proposed findings of fact to the Commission, the final~~
18 ~~order shall include an explicit ruling on each exception and each~~
19 ~~proposed finding of fact, provided however, the Commission will~~
20 ~~not rule upon proposed findings of fact unless submitted in~~
21 ~~conformance with Rule 25-22.056(2). The Commission is not~~
22 ~~required to make explicit rulings on subordinate, cumulative,~~
23 ~~immaterial or unnecessary proposed facts, and such proposed facts~~
24 ~~may be rejected in the final order by a statement that they are~~
25 ~~irrelevant or immaterial, or that competent substantial evidence~~

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1 ~~supports the presiding officer's findings of facts which were~~
2 ~~contrary to those filed in the exceptions.~~

3 Specific Authority: 120.53, F.S.

4 Law Implemented: 120.53, F.S.

5 History--New 12/21/81, Formerly 25-22.59, Repealed

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1 25-40.001 Exceptions to the Uniform Rules of Procedure. The
 2 following provisions of the Commission's rules are exceptions to
 3 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</u> <u>MEETINGS AND WORKSHOPS</u>	<u>25-22.0021</u> <u>Agenda Conference</u> <u>Participation.</u>
<u>28-102.001</u> <u>Notice of Public Meeting,</u> <u>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,</u> <u>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 --</u> <u>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>25-22.029</u>
	<u>Point of Entry Into Proposed</u>
	<u>Agency Action Proceedings.</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>

CODING: Words underlined are additions; words in ~~struck-through~~ type are deletions from existing law.

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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>25-22.029</u>
<u>Notice of Hearing.</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>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 _____.

CODING: Words underlined are additions; words in ~~struck-through~~ type are deletions from existing law.