

STATE OF FLORIDA

ORIGINAL

Commissioners:  
JOE GARCIA, CHAIRMAN  
J. TERRY DEASON  
SUSAN F. CLARK  
E. LEON JACOBS, JR.  
LILA A. JABER



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

Public Service Commission

May 2, 2000

Ms. Monique H. Cheek  
Office of Tourism, Trade, and  
Economic Development  
Executive Office of the Governor  
The Capitol  
Tallahassee, FL 32399-0001

SUBJECT: Docket No. 991651-PU - Revision of Rule 25-22.032,  
F.A.C., Customer Complaints

The Commission has determined that the above rule will affect small business. Accordingly, pursuant to Section 120.54(3)(b), Florida Statutes, enclosed is a copy of the Florida Administrative Weekly (FAW) notice for the proposed rule, which will be published in the May 5, 2000 edition of the FAW. No statement of estimated regulatory costs was prepared.

If there are any questions with respect to this rule or the Commission's rulemaking procedures, please do not hesitate to call on me.

Sincerely,

*Martha Carter Brown*

Martha Carter Brown  
Associate General Counsel

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG \_\_\_\_\_
- MAS \_\_\_\_\_
- OPC \_\_\_\_\_
- RRR \_\_\_\_\_
- SEC \_\_\_\_\_
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

Enclosures  
cc: Division of Records & Reporting

DOCUMENT NUMBER-DATE  
05454 MAY-28  
FFSC-RECORDS/REPORTING

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 991651-PU

RULE TITLE:

RULE NO.:

Customer Complaints

25-22.032

PURPOSE AND EFFECT: To establish procedures that are designed to expedite processing of customer complaints without extensive Commission participation. It also provides an informal dispute resolution process for the customer and the company if they cannot resolve the complaint without Commission intervention.

SUMMARY: It is the Commission's intent that disputes between regulated companies and their customers be resolved as quickly, effectively, and inexpensively as possible. This rule establishes customer complaint procedures that are designed to accomplish this intent. It includes an expedited telephone warm transfer and three day resolution process for complaints that can be resolved quickly by the customer and the company without extensive Commission participation. It also includes a process for informal Commission resolution of the complaint if the company and the customer cannot resolve the complaint themselves.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost was prepared for this rule.

Any person who wishes to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 364.19, 364.0252, 366.05,  
367.121, FS

LAW IMPLEMENTED: 364.01, 364.0252, 364.03(1), 364.183, 364.185,  
364.15, 364.19, 364.337(5), 366.03, 366.04, 366.05, 367.011,  
367.111, 367.121, 120.54, 120.569, 120.57, 120.573, FS

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

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING  
WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

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

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 25-22.032 follows. See Florida  
Administrative Code for present text.)

25-22.032 Customer Complaints.

1. Intent; Application and Scope.

It is the Commission's intent that disputes between  
regulated companies and their customers be resolved as quickly,  
effectively, and inexpensively as possible. This rule establishes  
informal customer complaint procedures that are designed to  
accomplish that intent. This rule applies to all companies

regulated by the Commission. It provides for expedited processes for customer complaints that can be resolved quickly by the customer and the company without extensive Commission participation. It also provides a process for informal Commission resolution of complaints that cannot be resolved by the company and the customer.

(2) Any customer of a Commission regulated company may file a complaint with the Division of Consumer Affairs whenever the customer has an unresolved dispute with the company regarding electric, gas, telephone, water, or wastewater service. The complaint may be communicated orally or in writing. The complaint shall include the name of the company against which the complaint is made, the name of the customer of record, and the customer's service address. Upon receipt of the complaint, a staff member will determine if the customer has contacted the company and, if the customer agrees, will put the customer in contact with the company for resolution of the complaint using the transfer-connect system described in subsection(3), or by other appropriate means if the company does not subscribe to the transfer-connect system. If the customer does not agree to be put in contact with the company, for those companies subscribing to the transfer-connect system, the staff member will submit the complaint to the company for resolution in accordance with the three-day complaint resolution process set forth in subsection (4). For those companies not subscribing to the transfer-connect

system, the staff member will submit the complaint to the company for resolution in accordance with the provisions of subsection (5).

(3) Transfer-connect system.

(a) Each company subject to regulation by the Commission may provide a transfer-connect (warm transfer) telephone number by which the Commission may directly transfer a customer to that company's customer service personnel. When the transfer is complete, any further charges for the call shall be the responsibility of the company and not the Commission or the customer. Each company that subscribes to the transfer connect system must provide customer service personnel to handle transferred calls during the company's normal business hours and at a minimum from Monday through Friday, 9:00 A.M to 4:00 P.M., Eastern time, excluding all holidays observed by the company.

(4) Complaints resolved within three (3) days.

Companies that subscribe to the transfer-connect system may resolve customer complaints within three days in the following manner:

(a) The Commission staff member handling the complaint will forward a description of the complaint to the company for response and resolution. The three day period will begin at 5:00 p.m. on the day the information is sent to the company and end at 5:00 p.m. on the third day, excluding weekends and holidays. If the company satisfactorily resolves the complaint, the company

shall notify the staff member of the resolution.

(b) The Commission will contact the customer to confirm that the complaint has been resolved. If the customer confirms that the complaint has been resolved, the complaint will not be reported in the total number of complaints shown for that company in the Commission Consumer Complaint Activity Report. However, the Commission will retain the information for use in enforcement proceedings, or for any other purpose necessary to perform its regulatory obligations.

(c) If the customer informs the Commission staff member that the complaint has not been resolved, the Commission will notify the company and require a full report as prescribed in subsection (5).

(d) For purposes of this subsection a complaint will be considered "resolved" if the company and the customer indicate that the problem has been corrected, or the company and the customer indicate that they have agreed to a plan to correct the problem.

(5) Complaints not resolved within three days.

If the customer does not agree to contact the company directly, if the customer is not satisfied with the company's proposed resolution of the complaint, or if the company does not subscribe to the transfer-connect system, a Commission staff member will investigate the complaint and attempt to resolve the dispute in the following manner:

(a) The staff member will notify the company of the complaint and request a response. The company shall provide its response to the complaint within fifteen (15) working days. The response shall explain the company's actions in the disputed matter and the extent to which those actions were consistent with applicable statutes and regulations. The response shall also describe all attempts to resolve the customer's complaint.

(b) The staff member investigating the complaint may request copies of bills, billing statements, field reports, written documents, or other information in the participants' possession that may be necessary to resolve the dispute. The staff member may perform, or request the company to perform, any tests, on-site inspections, and reviews of company records necessary to aid in the resolution of the dispute.

(6) During the complaint process, a company shall not discontinue service to a customer because of any unpaid disputed bill. However, the company may require the customer to pay that part of a bill which is not in dispute. If the company and the customer cannot agree on the amount in dispute, the staff member will make a reasonable estimate to establish an interim disputed amount until the complaint is resolved. If the customer fails to pay the undisputed portion of the bill the company may discontinue the customer's service pursuant to Commission rules.

(7) The staff member will propose a resolution of the complaint based on the information provided by all participants

to the complaint and applicable statutes and regulations. The proposed resolution may be either oral or written. Upon request, either participant shall be entitled to a written copy of the proposed resolution.

(8) Informal Conference. If a participant objects to the proposed resolution the participant may request an informal conference on the complaint.

(a) The request for an informal conference shall be in writing and filed with the Division of Consumer Affairs within 30 days after the proposed resolution is sent to the participants.

(b) When the request for an informal conference is received, the Director of the Division of Consumer Affairs will assign a Commission staff member to process the request for an informal conference. The staff member will advise the participants to complete Form X (PSC/CAF Form X), incorporated by reference herein, and return the form to the Commission within fifteen (15) days. A copy of Form X may be obtained from the Division of Consumer Affairs. At a minimum, the participants shall provide the following information on the form:

1. A statement describing the facts that give rise to the complaint;

2. A statement of the issues to be resolved; and

3. A statement of the relief requested.

The informal conference shall be limited to the complaint and the statement of facts and issues identified by the participants in



the form. The Commission staff will notify the requesting participant that the request for an informal conference will be denied if the requesting participant's form is not received within the 15 days.

(c) The Director of the Division will review the statements and either appoint a staff member to conduct the informal conference, or make a recommendation to the Commission for dismissal based on a finding that the complaint states no basis upon which relief may be granted.

(d) If a conference is granted, the staff member appointed to conduct the conference shall not have participated in the investigation or proposed resolution of the complaint.

(e) After consulting with the participants, the staff member will send a written notice to the participants setting forth the unresolved issues, the procedures to be followed at the informal conference, the dates by which written materials are to be filed, and the time and place for the conference. The conference may be held by telephone conference, video teleconference, or in person, no sooner than ten days following the notice.

(f) At the conference, the participants shall have the opportunity to present information, orally or in writing, in support of their positions. During the conference, the staff member may encourage the parties to resolve the dispute. The Commission will be responsible for tape-recording, but not transcribing, the informal conference. A participant may arrange

for transcription at his own expense.

(g) The staff member may permit any participant to file additional information, documentation, or arguments. The opposing participant shall have an opportunity to respond.

(h) If a settlement is not reached within 20 days following the informal conference or the last post-conference filing, whichever is later, the staff member shall submit a recommendation to the Commission for consideration at the next available Agenda Conference. Copies of the recommendation shall be sent to the participants.

(i) If the Director denies the request for an informal conference, the participants shall be notified in writing. Within 20 days of giving notice, the staff shall submit a recommendation for consideration at the next available Agenda Conference. Copies of the recommendation shall be sent to the participants.

(j) The Commission will address the matter by issuing a notice of proposed agency action or by setting the matter for hearing pursuant to section 120.57, Florida Statutes.

(9) At any point during the complaint proceedings, a participant has the right to be represented by an attorney or other representative. For purposes of this rule a representative may be any person the party chooses, unless the Commission sets the matter for hearing. If the Commission sets the matter for hearing, the participants may be represented by an attorney or a

qualified representative as prescribed in Rule 28-106.106, Florida Administrative Code, or may represent themselves. Each participant shall be responsible for his own expenses in the handling of the complaint.

(10) At any time the participants may agree to settle their dispute. If a settlement is reached, the participants or their representatives shall file with the Division of Consumer Affairs a written statement to that effect. The statement shall indicate that the settlement is binding on both participants, and that the participants waive any right to further review or action by the Commission. If the complaint has been docketed, the Division of Consumer Affairs shall submit the settlement to the Commission for approval. If the complaint has not been docketed, the Division will acknowledge the statement of settlement by letter to the participants.

(11) Record retention and auditing.

(a) All companies shall retain notes or documentation relating to each Commission complaint for two years, beginning when the complaint was first received.

(b) All companies shall file with the Commission, beginning 60 days after the effective date of this rule and monthly thereafter, a report that summarizes the following information for the preceding calendar month:

1. The total number of calls handled via transfer connect, including the customer's name, a brief description of the

complaint, and whether or not the complaint was addressed;

2. The number of complaints handled under the three day complaint resolution procedure; and whether the complaint was resolved.

(c) The Commission shall have access to all such records for audit purposes.

Specific Authority 350.127(2), 364.19, 364.0252, 366.05, 367.121, FS.

Law Implemented 364.01, 364.0252, 364.03(1), 364.183, 364.185, 364.15, 364.19, 364.337(5), 366.03, 366.04, 366.05, 367.011, 367.111, 367.121, 120.54, 120.569, 120.57, 120.573, FS.

History--New 01-03-89, Amended 10-28-93.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pamela Johnson

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:  
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: April 18, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:  
Volume 26, Number 2, January 14, 2000.

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because

of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).