



Public Service Commission  
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COMMISSION CLERK

**DATE:** SEPTEMBER 20, 2001

**TO:** DIRECTOR, DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (BAYÓ)

**FROM:** DIVISION OF APPEALS (CIBULA) *SMC, DES*  
 DIVISION OF THE COMMISSION CLERK & ADMINISTRATIVE SERVICES (FLYNN) *MF*  
 DIVISION OF ECONOMIC REGULATION (HEWITT) *RBH*  
 DIVISION OF LEGAL SERVICES (ESPINOZA) *JTE*

**RE:** DOCKET NO. 010975-OT - PROPOSED AMENDMENT TO RULE 25-22.104(2), F.A.C., NUMBERING OF ORDERS.

**AGENDA:** 10/02/01 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

**RULE STATUS:** PROPOSAL MAY BE DEFERRED

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\APP\WP\010975.RCM

DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission propose amendments to Rule 25-22.104, Florida Administrative Code, titled Numbering of Orders, to correct the procedure for the categorization of proposed agency action orders and to add three new order categories and one new docket suffix?

**RECOMMENDATION:** Yes, the Commission should propose amendments to Rule 25-22.104, Florida Administrative Code.

**STAFF ANALYSIS:** Section 120.53, Florida Statutes, requires each agency to maintain and index its orders. Rule 25-22.104, Florida Administrative Code, lists order categories and industry designations by which the Commission maintains and indexes its

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orders. The recommended changes would update the rule to include the most current order categories and industry designations.

As a result of the court's decision in United Water Florida, Inc. v. Florida Public Service Commission, 728 So. 2d 1250 (Fla. 1st DCA 1999), the Commission reinstated the practice of issuing consummating orders to finalize proposed agency action (PAA) orders. Under the current rule, PAA orders are designated as final agency action, either FOF or FOI. As PAA orders may no longer automatically become final agency action, the directive in subsection 2 of the rule that designates PAA orders as FOF or FOI must be deleted. Under the rule change, PAA orders have been given the order category suffix of "PAA," consummating orders have been given the category suffix of "CO," and tariff orders, which are similar in nature to PAA orders, have been given the category suffix of "TRF."

The current rule classifies show cause orders as preliminary, procedural, or intermediate in nature, and they thus have the designation "PCO." Show cause orders, however, have the additional element of a time-certain response date which sets them apart from other procedural orders. The rule change differentiates show cause orders from other procedural orders by designating show cause orders with the category suffix "SC."

The current rule does not reflect that the Commission regulates alternative local exchange telecommunications companies. The rule change reflects the Commission's regulation of alternative local exchange telecommunications companies and assigns the abbreviation "TX" to these entities.

**Statement of Estimated Regulatory Costs:**

The Florida Administrative Procedure Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). A SERC was not prepared for this recommended rule amendment, however, because there should be no additional costs other than the costs to promulgate a rule and no significant negative impacts on utilities, small businesses, small cities, or small counties.

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**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes. If no comments are filed, the rule amendments as proposed should be filed for adoption with the Secretary of State and the docket should be closed.

**STAFF ANALYSIS:** Section 120.54(3)(c), Florida Statutes, requires the Commission to hold a hearing, if requested, for all rules except those that relate exclusively to an agency's procedure or practice. Typically, if no hearing is requested and no comments are received, the rule is filed for adoption with the Secretary of State and the docket is closed. If comments are received, but no hearing is requested, staff reviews the comments and makes a recommendation to the Commission regarding the comments. Because this rule relates exclusively to the Commission's internal operating procedure, the Commission need not hold a hearing, even if one is requested. Therefore, if no comments are filed, staff recommends that the rule should be filed with the Secretary of State and the docket should be closed.

Attachments:

- Rule
- SERC Memorandum

1                   **25-22.104     Numbering of Orders.**

2           (1)     All orders shall be sequentially numbered as rendered using a two-part number  
3 separated by a dash with the first part before the dash indicating the year and the second part  
4 indicating the numerical sequence of the order issued for that year beginning with the number 0001  
5 each new calendar year. Amendatory orders will be assigned the same order number as the order  
6 being amended, with the addition of the letter "A" immediately following the order number. The  
7 assigned agency prefix which is "PSC" shall precede the two-part number.

8           (2)     The applicable order category shall be added as a suffix succeeding the agency  
9 designation prefix and the two-part number. ~~The order category suffix for proposed agency action~~  
10 ~~orders will be either "FOF" or "FOI", depending on the type of proceeding in which the order was~~  
11 ~~issued.~~ The order categories are as follows:

- 12           DS     -     Declaratory Statement  
13           FOI     -     Final Order Informal Proceedings  
14           FOF     -     Final Order Formal Proceedings  
15           S       -     Stipulation  
16           AS     -     Agreed Settlement  
17           CO     -     Consummating Order ~~Consent Order~~  
18           PAA    -     Proposed Agency Action Order  
19           TRF    -     Tariff Order  
20           SC     -     Show Cause Order  
21           PCO     -     Procedural Order  
22           PHO     -     Prehearing Order  
23           CFO     -     Confidentiality Order  
24           NOR     -     Notice of Rulemaking

25           (3)     After the order category, the applicable industry designation shall be inserted. The

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

1 industry designations are as follows:

- 2 EI - Electric Utility - Investor Owned  
3 EM - Electric Utility - Municipality  
4 EC - Electric Utility - Rural Electric Cooperative  
5 EU - Electric Utility - All  
6 EG - Energy Conservation  
7 EQ - Qualifying Cogeneration Facility  
8 GU - Gas Industry  
9 GP - Gas Pipeline  
10 TA - Telephone Utility - Alternate Access Vendor  
11 TC - Telephone Utility - Coin (Pay) Telephone Company  
12 TI - Telephone Utility - Interexchange Company  
13 TL - Telephone Utility - Local Exchange Company  
14 TS - Telephone Utility - Shared Tenant Company  
15 TX - Telephone Utility - Alternative Local Exchange  
16 TP - Telephone (Communications) Industry Generally  
17 WU - Water Utility  
18 SU - Wastewater (Sewer) Utility  
19 WS - Water and Wastewater Utility  
20 PU - Public Utilities Generally - Applies to matters which pertain to two or more  
21 industries.  
22 OT - Other Matters - Administrative Matters not related to a particular industry.

23 **Specific Authority:** 120.53(1)(f), F.S.

24 **Law Implemented:** 120.53(2)-(4), F.S.

25 **History:** New 09/24/92, Amended 12/27/94,\_\_\_\_\_.

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MEMORANDUM

July 12, 2001

TO: DIVISION OF APPEALS (CIBULA) *AC* *CH*  
FROM: DIVISION OF ECONOMIC REGULATION (HEWITT) *CSA* *199*  
SUBJECT: STATEMENT OF ESTIMATED REGULATORY COSTS FOR PROPOSED  
AMENDMENT OF RULE 25-22.104(2), F.A.C., NUMBERING OF ORDERS

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Rule 25-22.104(2), F.A.C., Numbering of Orders, lists Order categories and industry designations. The list is not complete and needs to be brought up-to-date and to reflect the current categorization.

The Administrative Procedures Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). However, there should be no additional costs and the proposed changes are procedural in manner. Therefore, a SERC will not be prepared for the proposed rule amendment.

cc: Mary Andrews Bane  
Hurd Reeves  
Kay Flynn

nummem.cbh