



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

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

**DATE:** AUGUST 7, 2003

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

**FROM:** OFFICE OF THE GENERAL COUNSEL (STERN) *UKS DES CBH*  
DIVISION OF ECONOMIC REGULATION (MAILHOT/HEWITT) *DM*

**RE:** DOCKET NO. 030712-GU - PROPOSED AMENDMENT OF RULES 25-7.014, 25-7.015, 25-7.135, AND 25-7.1352 AND PROPOSED REPEAL OF RULE 25-7.1351, F.A.C.

**AGENDA:** 08/19/03 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

**RULE STATUS:** PROPOSAL MAY BE DEFERRED

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\030712.RCM

COMMISSION CLERK  
AUG-6 11:20 AM  
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DISCUSSION OF ISSUES

**ISSUE 1:** Should Rules 25-7.014, 25-7.015, 25-7.135, and 25-7.1352, Florida Administrative Code, be revised, and should Rule 25-7.1351 be repealed?

**RECOMMENDATION:** Yes. The above listed rules should be revised to update references to the Code of Federal Regulations, to simplify reporting requirements, to eliminate the term 'may', and to define 'good cause'. Rule 25-7.1351 should be repealed because the simplification of reporting requirements consolidates the report required by this rule (Diversification Report) with the report required by Rule 25-7.135 (Annual Report).

**STAFF ANALYSIS:** Staff proposes revisions to Rules 25-7.014, 25-7.015, 25-7.135, and 25-7.1352, Florida Administrative Code. The changes made to each rule are discussed below.

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In Rule 25-7.014, Records and Reports in General, staff proposes to update the reference to the Uniform System of Accounts, Code of Federal Regulations (CFR), Part 201. Our rule should be revised to include the new CFR revision date of April 1, 2002.

In Rule 25-7.015, Location and Preservation of Records, staff proposes to update the reference to Title 18, Subchapter F, Part 225, CFR, "Preservation of Records of Natural Gas Companies,". Our rule should be revised to include the new CFR revision date of April 1, 2002. In addition, Section 225.3 of the CFR contains a retention schedule for records. Staff believes that some of the retention periods in the CFR should not be incorporated into Rule 25-7.015 because longer periods are needed, due to the time between rate proceedings, audits, and other matters before the Commission. For this reason, a subsection was added to our rule that increases the retention time for some records. See Rule 25-7.015(3)(a)1-6.

Rule 25-7.015(2) requires utilities maintaining records out of state to reimburse the expenses incurred by Commission employees to travel to the location where the records are kept. Rule 25-7.015(2)(b)(1) allows the reimbursement to be waived if the utility makes its records available at an in-state office within 10 days. The rule further provides that if 10 days is "not reasonable because of the complexity and nature of the issues involved, or the volume and type of material requested, the Commission **may** establish a different time frame . . . ." Staff anticipates that the Joint Administrative Procedures Committee (JAPC) will object to the word 'may' as being vague and without adequate standards, so staff proposes a revision. Staff's proposed revision allows for Commission approval of a time extension for 'good cause.' The term 'good cause' is defined, also in anticipation of JAPC's objection to it being vague and without adequate standards, to require a showing that:

- a. the nature of the issues, the volume of the records, or the type of record is such that assembling and providing the records requires more than 10 days;
- b. the utility has worked diligently to assemble the records; and
- c. the additional time requested is both reasonable and necessary given the utility's particular circumstances.

The approach taken here for eliminating the word 'may' and defining good cause is the same as that taken in Docket No. 030405-TL, where a similar revision was made to Rule 25-4.135.

In Rule 25-7.135, Annual Reports, staff proposes to amend Form PSC/ECR 20-G, entitled "Annual Report of Natural Gas Utilities," by deleting certain schedules and consolidating others. As a result of this change, the reference to the form number will also be amended. Rule 25-7.135(1) allows for a filing extension for "good cause." A definition of 'good cause' is added to the rule and states: "Good cause means a demonstration that the utility has worked diligently to prepare the report and that the additional time period requested to submit the report is both reasonable and necessary." This is the definition used in the Rule 25-4.135.

In Rule 25-7.1352, Earnings Surveillance Report, staff proposes to amend Form PSC/ECR 13-G, entitled "Investor-Owned Natural Gas Utility Earnings Surveillance Report (ESR)." The year end schedules are to be deleted since average schedules are used to monitor earnings. Also, the amendment changes the filing of the reports from monthly to quarterly. As a result of this change, the reference to the form number will also be amended. The definition of 'good cause' added to Rule 25-7.135 was also added to this rule.

Rule 25-7.1353, Forecasted Earning Surveillance Report, should be amended to require each investor-owned natural gas utility with more than 50,000 customers to file with the Commission its forecasted financial information on Commission Form PSC/ECR 23-G, entitled "Investor-Owned Natural Gas Utility Forecasted Earnings Surveillance Report." The definition of 'good cause' added to Rule 25-7.135 was also added to this rule.

Staff proposes to repeal Rule 25-7.1351 because the information required would be consolidated into the Annual Report under the proposed revisions to Rule 25-7.135, described above.

**STATUTORY AUTHORITY:**

Sections 350.127(2) and 366.05(1), Florida Statutes, grant the Commission rulemaking authority. The laws implemented by each rule are summarized in the table below.

<u>Rule</u>	<u>Law Implemented</u>
<p>25-7.014 Records and Reports in General</p>	<p>366.05(1) - Allows the Commission to prescribed fair and reasonable rates and charges, and standards of quality and measurements, and service rules and regulations to be observed by public utilities.</p>
<p>25-7.015 Location and Preservation of Records</p>	<p>366.05(1) - see above</p> <p>366.05(9)- Allows the Commission to require reports and other data from a public utility and its affiliated companies: 1) on transactions or cost allocations among the utility and its affiliates; and, 2) to ensure that the utility's ratepayers do not subsidize nonutility activities.</p> <p>366.05(11) - Allows the Commission to assess a public utility for travel costs incurred to review out-of-state records. Allows the utility to bring the records into the state for review.</p> <p>366.08 - Grants the Commission or its representatives access to the premises of a public utility in order to perform investigations, inspections, examinations, and tests, and to exercise any powers conferred under Chapter 366.</p> <p>366.093(1) - Grants the Commission access to: 1) all records of a public utility and its affiliates on transactions and cost allocations among the utility and its affiliates; and 2) records necessary to ensure that a utility's ratepayers do not subsidize nonutility activities. Allows the Commission to exempt certain records from Section 119.07(1), Florida Statutes.</p>

25-7.135 Annual Reports	366.05(1) - see above
25-7.1352 Earnings Surveillance Report	350.117(1) - Allows the Commission to require regular or emergency reports needed to fulfill its obligations under the law.  366.04(2)(f) - Allows the Commission to require reports and other data, as may be reasonably available and necessary to exercise its jurisdiction over electric utilities.
25-7.1353 Forecasted Earnings Surveillance Report	350.117(1) - see above  366.05(1) - see above

**STATEMENT OF ESTIMATED REGULATORY COSTS**

There should be no additional costs and no significant negative impacts as a result of amending or repealing the rules because the changes simplify and reduce reporting requirements. Therefore, no Statement of Estimated Regulatory Costs (SERC) was prepared.

DOCKET NO. 030712-GU

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

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

**STAFF ANALYSIS:** Unless comments or requests for hearing are filed, the rule as proposed may be filed for adoption with the Secretary of State without further action by the Commission. The docket may then be closed.

3 **25-7.014 Records and Reports in General.**

4 (1) Each natural gas utility shall maintain its accounts and records in conformity with  
5 the Uniform System of Accounts for Natural Gas Companies (USOA) as found in the Code of  
6 Federal Regulations, Title 18, Subchapter F, Part 201, for Major Utilities as revised, April 1, 2002  
7 ~~2000~~, and as modified below. All inquiries relating to interpretation of the USOA shall be submitted  
8 to the Commission's Division of Economic Regulation in writing.

9 (2) Each utility shall establish and maintain continuing property records in conformity  
10 with the plant accounts prescribed in the USOA. The records shall be compiled on the basis of  
11 original cost or other book cost consistent with the provisions of the USOA. The continuing  
12 property records or records supplemental thereto shall contain such detailed description and  
13 classification of property record units that will permit their ready identification and verification.  
14 They shall be maintained in such manner as will meet the following basic objectives:

15 (a) An inventory of property record units which may be readily checked for proof of  
16 physical existence;

17 (b) The association of costs with such property record units to assure accurate accounting  
18 for retirements; and

19 (c) The determination of dates of installation and removal of plant to provide data for  
20 use in connection with depreciation studies.

21 (3) For ratemaking purposes only, each investor-owned natural gas utility shall accrue  
22 unbilled base rate revenues, excluding those base rate revenues recoverable through other cost  
23 recovery or adjustment mechanisms.

24 (4) Each utility shall furnish to the Commission at such time and in such form as the  
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3 Commission may require, the results of any required tests and summaries of any required records.  
4 The utility shall also furnish the Commission with any information concerning the utility's facilities  
5 or operation which the Commission may request and require for determining rates and judging the  
6 practices of the utility. All such data, unless otherwise specified, shall be consistent with and  
7 reconcilable with the utility's Annual Report to the Commission.

8 (5) The results of all tests, summaries, records and reports required by the Commission  
9 (including the Annual Report) shall, where appropriate, be reported on a therm basis rather than a  
10 volumetric or MCF basis.

11 (6) Upon direction of the Commission, or in the performance of delegated staff duties,  
12 any member of the Commission staff may make at any reasonable time a personal visit to the  
13 utility's offices or other places of business, and may inspect any facility, records, accounts, books,  
14 reports, and papers of the utility which may appear necessary in the discharge of Commission duties.  
15 During such visits the utility shall provide staff members with adequate and comfortable working  
16 and filing space, consistent with prevailing conditions and climate and comparable with the  
17 accommodations provided the utility's outside auditors.

18 **Specific Authority: 366.05(1), 350.127(2), F.S.**

19 **Law Implemented: 366.05(1), F.S.**

20 **History: Amended 7/19/72, Repromulgated 1/8/75, 5/4/75, Amended 12/30/75, 9/28/81,**  
21 **11/18/82, formerly 25-7.14, Amended 10/1/86, 4/4/88, 7/20/89, 12/27/94, 4/22/96.**

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3 **25-7.015 Location and Preservation of Records.**

4 (1) All records that a utility is required to keep, by reason of these or other rules  
5 prescribed by the Commission, shall be kept at the office or offices of the utility within the state,  
6 unless otherwise authorized by the Commission. Such records shall be open for inspection by the  
7 Commission or its authorized representatives at any and all reasonable times.

8 (2) Any utility that keeps its records outside of the state shall reimburse the Commission  
9 for the reasonable travel expense incurred by each Commission representative during any review  
10 of the out-of-state records of the utility or its affiliates. Reasonable travel expenses are those travel  
11 expenses that are equivalent to travel expenses paid by the Commission in the ordinary course of  
12 its business.

13 (a) The utility shall remit reimbursement for out-of-state travel expenses within 30 days  
14 from the date the Commission mails the invoice.

15 (b) The reimbursement requirement in subsection (2) shall be waived:

16 1. For any utility that makes its out-of-state records available at the utility's office  
17 located in Florida or at another mutually agreed upon location in Florida within 10 working days  
18 from the Commission's initial request. If a utility would like more than 10 working days, it must  
19 submit a request for approval of a time extension stating the date by which it would like to make the  
20 records available. A request for approval of a time extension shall only be granted for good cause.  
21 To establish good cause for a time extension, the utility must show that:

22 a. the nature of the issues, the volume of the records, or the type of record is such that  
23 assembling and providing the records requires more than 10 days;

24 b. the utility has worked diligently to assemble the records; and  
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3 c. the additional time requested is both reasonable and necessary given the utility's particular  
4 circumstances.

5 ~~If 10 working days is not reasonable because of the complexity and nature of the issues involved~~  
6 ~~or the volume and type of material requested, the Commission may establish a different time frame~~  
7 ~~for the utility to bring records into the state. For individual data requests made during an audit, the~~  
8 ~~response time frame established in Rule 25-7.0151, Florida Administrative Code, shall control; or~~

9 2. For a utility whose records are located within 50 miles of the Florida state line.

10 (3) All records shall be preserved in accordance with the Federal Energy Regulatory  
11 Commission's regulations, Title 18, Subchapter F, Part 225, Code of Federal Regulations, entitled  
12 "Preservation of Records of Natural Gas Companies" as revised, April 1, 2002 ~~1994~~, which is  
13 incorporated by reference into this rule, with the exception of the records listed in section (3)(a) of  
14 this rule. Item 64 (Records of predecessors and former associates) of the Schedule of records and  
15 periods of retention contained in Title 18, Subchapter F, Section 225.3, Code of Federal Regulations.  
16 Instead, utilities shall retain records listed in section (3)(a) of this rule for the periods indicated. of  
17 ~~acquired companies until permission for disposal is petitioned for and approved by the Florida~~  
18 ~~Public Service Commission.~~

19 (a) The Code of Federal Regulations Items listed below are exceptions to the Schedule of  
20 Records and Periods of Retention contained in Title 18, Subchapter F, Section 225.3, Code of  
21 Federal Regulations:

22 1. Item 2(a), minute books of stockholders', directors', and directors' committee  
23 meetings, earlier of 20 years or termination of corporation's existence;

24 2. Item 6(a)(1), general ledgers, 20 years;

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3 3. Item 6(a)(2), ledgers subsidiary or auxiliary, 20 years;

4 4. Item 7, journals: general and subsidiary, 20 years;

5 5. Item 8(a), journal vouchers and journal entries, 20 years;

6 6. Item 20(a), appraisals and valuations made by the company of its properties or  
7 investments or of the properties or investments of any associated companies (includes all records  
8 essential thereto.), 10 years after appraisal.

9 (b)(a) However, all source documents retained as required by Title 18, Subchapter F, Part  
10 225, Code of Federal Regulations shall be maintained in their original form for a minimum of three  
11 years, or for any lesser period of time specified for that type of record in Title 18, Subchapter F, Part  
12 225, Code of Federal Regulations, after the date the document was created or received by the utility.  
13 This paragraph does not require the utility to create paper copies of documents where the utility  
14 would not otherwise do so in the ordinary course of its business. A utility may request approval to  
15 The Commission may waive the requirement that documents be retained in their original form. Such  
16 request must show upon a showing by a utility that the utility it employs a storage and retrieval  
17 system that consistently produces clear, readable copies that are substantially equivalent to the  
18 originals, and clearly reproduces handwritten notations on documents.

19 (c)(b) The utility shall maintain written procedures governing the conversion of source  
20 documents to a storage and retrieval system, which procedures ensure the authenticity of documents  
21 and the completeness of records. Records maintained in the storage and retrieval system must be  
22 easy to search and easy to read.

23 **Specific Authority:** 366.05(1)(9), & (11), 366.08, 366.093(1), 350.127(2), F.S.

24 **Law Implemented:** 366.05(1)(9) & (11), 366.08, 366.093(1), F.S.

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3 **History: Amended 7/19/72, Repromulgated 1/8/75, Amended 12/30/75, 9/28/81, 11/28/82,**  
4 **10/1/86, 4/4/88, 11/13/95.**

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3 **25-7.135 Annual Reports.**

4 (1) Each investor-owned natural gas utility shall file annual reports with the Commission  
5 on Commission Form PSC/ECR 20-G( / ) 20-(4/96) which is incorporated by reference into this  
6 rule. Form PSC/ECR 20-G 20, entitled "Annual Report of Natural Gas Utilities", may be obtained  
7 from the Commission's Division of Economic Regulation. These reports shall be verified by a  
8 responsible accounting officer of the company making the report and shall be due on or before April  
9 30 for the preceding calendar year. A utility may file a written request for an extension of time with  
10 the Division of Economic Regulation no later than April 30. One extension of 31 days will be  
11 granted upon request. A request for Commission approval of a longer extension must be  
12 accompanied by a statement of good cause and shall specify the date by which the report will be  
13 filed. Good cause means a demonstration that the utility has worked diligently to prepare the report  
14 and that the additional time period requested to submit the report is both reasonable and necessary.

15 (2) The utility shall also file with the original and each copy of the annual report form,  
16 or separately within 30 days, a letter or report, signed by an independent certified public accountant,  
17 attesting to the conformity in all material respects of the Comparative Balance Sheet, Statement of  
18 Income, ~~and Statement of Cash Flows~~ and any applicable notes from Form PSC/ECR 20-G 20 with  
19 the Commission's applicable uniform system of accounts and published accounting releases.

20 (3) Any utility which is on a fiscal year other than the calendar year may file the  
21 schedules and certification letter required by subsection (2) on a fiscal year basis within 90 days  
22 from the close of its fiscal year. A complete annual report, except for the certification letter, shall  
23 also be filed on a calendar year basis by these utilities.

24 **Specific Authority: 366.05(1), 350.127(2), F.S.**

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3 **Law Implemented: 366.05(1), F.S.**

4 **History: New 12/27/94, amended 4/15/96.**

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3 **25-7.1351 Diversification Reports.**

4 ~~(1) Each new investor-owned gas utility shall file information on its affiliates and~~  
5 ~~affiliated transactions on Commission Form PSC/ECR 16 (12/94) which is incorporated into this~~  
6 ~~rule by reference. Form PSC/ECR 16, entitled "Analysis of Diversification Activities", may be~~  
7 ~~obtained from the Commission's Division of Economic Regulation.~~

8 ~~(2) Definitions~~

9 ~~(a) Affiliate - Any entity that directly or indirectly through one or more intermediaries;~~  
10 ~~controls, is controlled by, or is under common control with a gas utility. Ownership of 5 percent or~~  
11 ~~more of the voting securities of an entity shall be conclusively deemed to constitute the control~~  
12 ~~thereof.~~

13 ~~(b) Affiliated Transaction - Any transaction in which both a gas utility and an affiliate~~  
14 ~~thereof are each participants other than transactions related to the filing of consolidated tax returns.~~

15 ~~(3) Within 45 days of coming under the jurisdiction of the Commission, each investor-~~  
16 ~~owned gas utility shall file Schedules 1, 7, and 8 of Form PSC/ECR 16 with the Division of~~  
17 ~~Economic Regulation.~~

18 **Specific Authority: 366.05(1), 350.127(2), F.S.**

19 **Law Implemented: 366.05(1), F.S.**

20 **History: New 12/27/94, amended 4/15/96.**

21 **25-7.1352 Earnings Surveillance Report.**

22 (1) Each investor-owned natural gas utility shall file rate of return data using  
23 Commission Form PSC/ECR 13-G (/) 13 (5/96), which is incorporated by reference into this rule.  
24 Form PSC/ECR 13-G 13, entitled "Investor-Owned Natural Gas Utility Earnings Surveillance  
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3 Report," may be obtained from the Commission's Division of Economic Regulation.

4 (2) The report shall be filed:

5 (a) Quarterly Monthly, by the 15th day of the second month following the reported  
6 quarter month for natural gas utilities with 25,000 ~~50,000~~ or more customers.

7 ~~(b) Quarterly, by the 15th day of the second month following the reported quarter for~~  
8 ~~natural gas utilities with fewer than 50,000 customers and more than 5,000 customers.~~

9 ~~(b)(c)~~ Semiannually, by the 15th day of the second month following the reported period for  
10 natural gas utilities with 25,000 ~~5,000~~ or fewer customers.

11 (3) A utility may file a written request for an extension of time with the Division of  
12 Economic Regulation prior to the due date of the report. One extension of 31 days will be granted  
13 upon request. A request for Commission approval of a longer extension must be accompanied by  
14 a statement of good cause and shall specify the date by which the utility proposes to file the report.  
15 ~~the report will be filed.~~ Good cause means a demonstration that the utility has worked diligently  
16 to prepare the report and that the additional time period requested to submit the report is both  
17 reasonable and necessary.

18 **Specific Authority: 350.127(2), F.S.**

19 **Law Implemented: 350.117(1), 366.04(2)(f), F.S.**

20 **History: New 11/18/82, formerly 25-7.24, Amended 4/23/92, formerly 25-7.024, Amended**  
21 **6/10/94, 5/8/96.**

22 **25-7.1353 Forecasted Earnings Surveillance Report.**

23 (1) Each investor-owned natural gas utility with more than 50,000 customers ~~that is not~~  
24 ~~under an incentive regulation plan or not subject to an earnings cap~~ shall file with the Commission

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3 its forecasted financial information on Commission Form PSC/ECR 23-G ( / ) 23 (1/95) which is  
4 incorporated into this rule by reference. Form PSC/ECR 23-G 23, entitled "Investor-Owned Natural  
5 Gas Utility Forecasted Earnings Surveillance Report", may be obtained from the Commission's  
6 Division of Economic Regulation. The report shall be verified by the responsible officer of the  
7 utility making the report. The report shall be due no later than 60 days after the end of the fiscal  
8 year, and shall contain the forecasted financial information for the following fiscal year.

9 (2) A utility may file a written request for an extension of time with the Division of  
10 Economic Regulation no later than 60 days after the end of the fiscal year. One extension of 15 days  
11 will be granted upon request. A request for approval of a longer extension must be accompanied  
12 by a statement of good cause and shall specify the date by which the utility proposes to file the  
13 report. report will be filed. Good cause means a demonstration that the utility has worked diligently  
14 to prepare the report and that the additional time period requested to submit the report is both  
15 reasonable and necessary.

16 (3) If during the course of the forecast fiscal year the utility should revise its forecasted  
17 financial information as a result of a change in a forecast assumption such that its forecasted annual  
18 return on equity changes by more than 25 basis points, whether as a result of a single or several  
19 events or assumptions, the utility shall provide the Commission with the following information  
20 within 30 days of the revised forecast:

21 (a) A description of the revised forecast assumptions or other events that caused the  
22 forecasted return on equity to be revised.

23 (b) An estimate of the revised annual return on equity.

24 **Specific Authority: 350.127(2), 366.05(1), F.S.**

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3 **Law Implemented: 350.117(1), 366.05(1), F.S.**

4 **History: New 1/11/95.**

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State of Florida



Public Service Commission  
-M-E-M-O-R-A-N-D-U-M-

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**DATE:** August 1, 2003  
**TO:** Office of the General Counsel (Stern)  
**FROM:** Division of Economic Regulation (Hewitt) *CDH* *W* *OK* *10/8*  
**RE:** Statement of Estimated Regulatory Costs for Proposed Amendments to Rules 25-7.014, 25-7.015, 25-7.135, 25-7.1352, and 25-7.1353, and repeal of Rule 25-7.1351, F.A.C., Investor-Owned Gas Utility Reporting Requirements

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Rules 25-7.014, 25-7.015, 25-7.135, 25-7.1352, and 25-7.1353, F.A.C., contain the requirements for gas utility accounting and reporting. Rule 25-7.1351, F.A.C., requires filing diversification reports on regulated gas utilities' affiliates and affiliated transactions.

The rule amendments would streamline and update requirements of Commission forms and references to national codes. Repeal of Rule 25-7.1351 eliminates a reporting requirement which is currently included in the utility's annual report. Other information required by the rule would be included in the report required in Rule 25-7.135.

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

cc: Mary Andrews Bane  
Dale Mailhot  
Hurd Reeves