



Public Service Commission
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DATE: OCTOBER 22, 2003

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

FROM: OFFICE OF THE GENERAL COUNSEL (CIBULA, GERVASI)
DIVISION OF CONSUMER AFFAIRS (TUDOR, DEMELLO)
DIVISION OF ECONOMIC REGULATION (HEWITT)

RE: DOCKET NO. 030575-PU - PROPOSED AMENDMENT TO RULE 25-22.032, F.A.C., CUSTOMER COMPLAINTS.

AGENDA: 11/03/03 - REGULAR AGENDA - RULE ADOPTION - PARTICIPATION IS LIMITED TO COMMISSIONERS AND STAFF

RULE STATUS: ADOPTION SHOULD NOT BE DEFERRED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\GCL\WP\030575.RCM

CASE BACKGROUND

On August 19, 2003, the Commission voted to propose amendments to Rule 25-22.032, Florida Administrative Code. Rule 25-22.032 pertains to the Commission's customer complaint handling procedure. The purpose of the rule amendments is to streamline the customer complaint handling process to allow Commission staff to better assist consumers in a timely and efficient manner.

The Commission published its Notice of Proposed Rulemaking in the September 5, 2003, Florida Administrative Weekly. Although the Commission did not receive any requests for hearing on the proposed rule amendments, it did receive a letter (Attachment C) from the staff of the Joint Administrative Procedures Committee (JAPC) containing comments on the proposed rule amendments. This recommendation is to address whether the Commission should make changes to the proposed Rule 25-22.032 based on JAPC's comments.

The Commission has rulemaking authority in this matter pursuant to sections 120.54, 350.127(2), 364.19, 364.0252, 366.05, and 367.121, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission adopt changes to the proposed amendment of Rule 25-22.032, Florida Administrative Code, entitled Customer Complaints, to address JAPC's comments?

RECOMMENDATION: Yes. The Commission should adopt proposed Rule 25-22.032 with changes, as set forth in Attachment A. (CIBULA, GERVASI, TUDOR, DEMELLO, HEWITT)

STAFF ANALYSIS: As stated in the case background, the Commission voted to propose amendments to Rule 25-22.032 on August 19, 2003. On October 2, 2003, JAPC staff provided comments on the proposed rule amendment.

The first comment JAPC made in regard to the proposed rule amendment pertains to subsection (6)(b)(page 11). Specifically, JAPC refers to the phrase "Unless the Commission staff requests that the company not contact the customer directly, . . ." and states that the Commission should provide criteria pursuant to which Commission staff will request that a company not make direct contact with a customer. Staff notes that the phrase in subsection (6)(b) to which JAPC takes issue was included to take into account the rare times when customers have specifically stated that they want to deal only with the Commission, not the utility, in resolving complaints.

Upon further reflection, staff recommends that the beginning phrase be removed from the rule. Removal of the language will require that the utility company contact the customer in every instance to attempt to resolve the complaint. As the rule permits the company to contact the customer in writing, staff believes that such contact will not be overly intrusive. Staff notes that, however, in instances where the customer specifically requests the Commission's assistance in resolving the complaint, Commission staff would of course continue to work with the customer and company to arrive at a resolution. Staff believes that attempting to provide a list of criteria for when Commission staff will request that a company not make direct contact with the customer would unduly complicate the rule.

The second comment JAPC provides pertains to the incorporation of Form PSC/CAF10 in subsection (8)(a) of the amended rule (page 16). Staff recommends that the Commission make this change so that the rule complies with section 120.55(1)(a)4, Florida Statutes.

JAPC also comments on the use of the word "may" in subsection (8)(c) of the amended rule (page 18) and on the very last line of Form PSC/CAF10 (page 27). JAPC staff indicated to staff counsel that the use of "may" in this regard gives the Commission too much discretion. JAPC staff indicated that subsection (8)(c) could be remedied by changing the beginning phrase in (8)(c) from "Staff handling the informal conference may permit any participant to file additional information, documentation, or arguments. . . ." to "Any participant may file additional information, documentation, or arguments. . . ." Staff recommends that the Commission make this change to the rule.

As for the Form PSC/CAF10 language stating that "Failure to provide this information may result in denial of the informal conference request," staff recommends that this language be deleted from the form. Staff believes that changing the language to require that the Commission will deny the informal conference request if the information is not provided could result in the Commission being required to dismiss a complaint even when the customer may have substantially complied with the requirement to fill out the form. Staff points out that an informal conference would not normally be denied on this basis and that staff currently works with customers and companies to ensure that all the information necessary for the informal conference is provided.

Staff further notes that removal of the language will not foreclose the Commission from dismissing a complaint if a customer fails to fill out the form as required. Staff believes that if there is an instance where this is problem, the matter can be handled on a case-by-case basis by the Commission, and if a major problem develops in this regard, the rule can be amended at a future date.

JAPC's final comment on Rule 25-22.032 pertains to subsection (11)(a) of the amended rule (page 24). Specifically, JAPC inquired as to the criteria the Commission will consider for a request for additional extension of time to file the Commission required forms and the criteria upon which the time of such extension will be set.

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Staff recommends that this portion of subsection (11)(a) be deleted from the rule. As discussed above in regard to JAPC's comments to subsection (6)(b) of the proposed rule, staff believes listing criteria may unduly complicate the rule. Furthermore, staff notes that if companies are in need of an additional extension of time, they may still file motions for extension of time pursuant to Rule 28-106.204, Florida Administrative Code. The Commission can address any such motions on a case-by-case basis.

Based on the foregoing, staff recommends that the Commission adopt proposed Rule 25-22.032, Florida Administrative Code, with changes, as set forth in Attachment A.

ISSUE 2: Should the rule be filed for adoption with the Secretary of State and the docket closed?

RECOMMENDATION: Yes. A Notice of Change should be published in the Florida Administrative Weekly. After the notice is published, the rule may be filed for adoption with the Secretary of State and the docket may then be closed. (CIBULA, GERVASI)

STAFF ANALYSIS: If the Commission approves the changes to Rule 25-22.032 as set forth in Issue 1, a Notice of Change must be published in the Florida Administrative Weekly. After the notice is published, the rule may be filed for adoption with the Secretary of State and the docket may then be closed.

Attachments:

- Rule
- Form PSC/CAF10
- JAPC staff letter

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3 **Attachment A**

4 25-22.032 Customer Complaints.

5 (1) Intent; Application and Scope.

6 It is the Commission's intent that disputes between regulated
7 companies and their customers be resolved as quickly, effectively,
8 and inexpensively as possible. This rule establishes informal
9 customer complaint procedures that are designed to address
10 disputes, subject to the Commission's jurisdiction, that occur
11 between regulated companies and individual customers accomplish
12 that intent. ~~This rule applies to all companies regulated by the~~
13 ~~Commission.~~ It provides for expedited processes for customer
14 complaints that can be resolved quickly by the customer and the
15 company ~~without extensive Commission participation.~~ It also
16 provides a process for informal Commission staff resolution of
17 complaints that cannot be resolved by the company and the customer.

18 (2) Processing of Complaints

19 (a) Any customer of a Commission regulated company may file
20 a complaint with the Division of Consumer Affairs whenever the
21 customer has an unresolved dispute with the company regarding
22 electric, gas, telephone, water, or wastewater service that is
23 subject to the Commission's jurisdiction. The complaint may be
24 communicated orally or in writing. The complaint shall include the
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3 name of the company against which the complaint is made, the name
4 of the customer of record, and the customer's service address.
5 Upon receipt of a ~~the~~ complaint by telephone, Commission ~~a~~ staff
6 member will determine if the customer has contacted the company.
7 ~~and,~~

8 (b) In the case of complaints made by telephone, if the
9 customer agrees, Commission staff will put the customer in contact
10 with the company for resolution of the complaint using the
11 telephone transfer-connect system described in subsection (4)(3),
12 or by other appropriate means if the company does not subscribe to
13 the telephone transfer-connect system. If the customer does not
14 agree to be put in contact with the company, then, in the case of
15 ~~for those~~ companies subscribing to the telephone transfer-connect
16 system, ~~the staff member~~ will submit the complaint to the company
17 for resolution in accordance with the provisions ~~three-day~~
18 ~~complaint resolution process~~ set forth in subsection (5)(4).

19 (c) For those companies not subscribing to the telephone
20 transfer-connect or to the E-mail transfer system described in
21 subsection (4), ~~the staff member~~ will submit the complaint to the
22 company for resolution in accordance with the provisions of
23 subsection (6)(5).

24 (3) Protection from Disconnection.
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3 During the complaint process described in sections (5) - (9),
4 a company shall not discontinue service to a customer because of
5 any unpaid disputed amount until the complaint is closed by
6 Commission staff. However, the company may require the customer to
7 pay that part of a bill which is not in dispute. If the company and
8 the customer cannot agree on the amount in dispute, Commission
9 staff will make a reasonable estimate to establish an interim
10 disputed amount until the complaint is closed by Commission staff.
11 If the customer fails to pay the undisputed portion of the bill,
12 the company may discontinue the customer's service pursuant to
13 Commission rules.

14 (4)-(3) Telephone Transfer-connect and E-mail Transfer
15 systems.

16 (a) Each company subject to regulation by the Commission may
17 provide a telephone transfer-connect ~~(warm transfer)~~ telephone
18 number by which the Commission may directly transfer a customer to
19 that company's customer service personnel. When the telephone
20 transfer is complete, any further charges for the call shall be the
21 responsibility of the company and not the Commission or the
22 customer. Each company that subscribes to the telephone transfer-
23 connect system must provide customer service personnel to handle
24 transferred calls during the company's normal business hours and at
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3 a minimum from Monday through Friday, 9:00 A.M. to 4:00 P.M.,
4 Eastern time, excluding all holidays observed by the company.
5 Telephone transfer-connect calls shall not be initially answered by
6 a recorded voice but shall be answered by a person ready to receive
7 information about the complaint.

8 (b) A company may also provide to the Commission an E-mail
9 address by which the customer may directly E-mail a complaint to
10 the company's customer service personnel from the Commission's
11 Internet Web site. The company shall acknowledge the customer's E-
12 mail to the customer by no later than the working day after the
13 date of receipt.

14 (5)-(4) Complaints resolved within three (3) days by
15 companies participating in the Telephone Transfer-Connect System or
16 the E-mail Transfer System.

17 Companies that subscribe to the telephone transfer-connect or
18 E-mail transfer system may resolve a customer complaints within
19 three days in the following manner:

20 (a) The Commission staff member handling the complaint will
21 forward a description of the complaint to the company for response
22 and resolution. The three day period will begin the working day
23 after ~~at 5:00 p.m.~~ on the day the information is sent to the
24 company and end at 5:00 p.m. Eastern time on the third working day,
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3 excluding weekends and company holidays. If the company
4 satisfactorily resolves the complaint, the company shall notify
5 Commission the staff member of the resolution in writing by no
6 later than 5:00 p.m. Eastern time on the third day.

7 (b) ~~The Commission will contact the customer to confirm that~~
8 ~~the complaint has been resolved. If the customer does not object~~
9 ~~to the company's resolution to the complaint confirms that the~~
10 ~~complaint has been resolved, the complaint will not be reported in~~
11 ~~the total number of complaints shown for that company in the~~
12 ~~Commission's Consumer Complaint Activity Report. However, the~~
13 ~~Commission will retain the information for use in enforcement~~
14 ~~proceedings, or for any other purpose necessary to perform its~~
15 ~~regulatory obligations.~~

16 (c) If the customer informs the Commission staff member that
17 the complaint has not been resolved, the Commission staff will
18 notify the company and require a full report as prescribed in
19 subsection (6)(5).

20 (d) For purposes of this subsection a complaint will be
21 considered "resolved" if the company report indicates that the
22 problem has been corrected or the company report indicates that the
23 company and the customer have agreed to a plan to correct the
24 problem. ~~and the customer indicate that the problem has been~~
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3 ~~corrected, or the company and the customer indicate that they have~~
4 ~~agreed to a plan to correct the problem.~~

5 ~~(6)(5)~~ General Commission Staff Complaint Investigation.

6 ~~Complaints not resolved within three days.~~

7 If the customer is not placed in direct contact with the
8 company by means of the telephone transfer connect or E-mail
9 transfer system for resolution of his complaint, does not agree to
10 ~~contact the company directly, if the customer is not satisfied with~~
11 ~~the company's proposed resolution of the complaint, or if the~~
12 ~~company does not subscribe to the transfer connect system, a~~
13 ~~Commission staff member will investigate the complaint and attempt~~
14 ~~to resolve the dispute in the following manner:~~

15 (a) Commission ~~The staff member will~~ acknowledge receipt of
16 the complaint to the customer, notify the company of the complaint
17 and request a written response from the company. Notification to
18 the company by Commission staff will be to the primary Commission
19 liaison for each certificate unless the company has provided to the
20 Director of the Division of Consumer Affairs a name, address,
21 telephone and facsimile numbers and E-mail address for a separate
22 point of contact for complaint handling for each certificate. It
23 is preferable for a company to have a single point of contact for
24 complaint handling but a company may identify up to a maximum of
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3 three points of contact for complaint handling per certificate.
4 However, if Commission staff directs a complaint to any one of the
5 identified multiple complaint handling contacts, the company shall
6 process the complaint and not return the complaint to Commission
7 staff for redirecting the complaint to other company points of
8 contact. The company shall provide its response to the complaint
9 within fifteen (15) working days.

10 (b) ~~Unless the Commission staff requests that the company not~~
11 ~~contact the customer directly,~~ The company shall make direct
12 contact with the customer verbally or in writing and provide to the
13 customer its response to the complaint within 15 working days after
14 the Commission staff sends the complaint to the company. Responses
15 sent by mail must be postmarked within the 15 working day time
16 period. The company shall also provide to the Commission staff,
17 within 15 working days after the Commission staff sends the
18 complaint to the company, a written response to the customer's
19 complaint. However, in the case of those complaints where the
20 company has proposed, under the provisions of subsection (5) of
21 this rule (complaints resolved in 3 days), a resolution with which
22 the customer is not satisfied, the company shall respond within
23 twelve (12) working days of the case being resent to the company.

24 (c) The company's response to the Commission staff shall
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3 explain the company's likely cause of the problem, all actions
4 taken by the company to resolve the customer's complaint, and the
5 company's resolution or proposed resolution of the complaint and
6 shall answer any specific questions raised by Commission staff.
7 The company response shall also include letters or E-mails sent to
8 the customer that contain the company's proposed resolution of the
9 complaint or statement of position in addressing or resolving the
10 complaint. Upon Commission staff request, other documentation
11 related to the complaint shall be provided to Commission staff.
12 ~~actions in the disputed matter and the extent to which those~~
13 ~~actions were consistent with applicable statutes and regulations.~~
14 ~~The response shall also describe all attempts to resolve the~~
15 ~~customer's complaint. If the company's proposed resolution has not~~
16 ~~yet been implemented at the time of the response to the Commission~~
17 ~~staff and customer, the company shall fully set forth in its~~
18 ~~response the steps that will be taken by the company to resolve the~~
19 ~~complaint and the dates by which each step will be taken by the~~
20 ~~company. The company shall promptly notify the customer if it is~~
21 ~~subsequently unable to take its proposed action as scheduled and~~
22 ~~shall provide to the customer and, upon request, to Commission~~
23 ~~staff, a new resolution schedule for the complaint.~~

24 (d) Commission staff will not normally further respond to the
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3 customer. However, if a customer objects to the company response
4 to the complaint, the customer may request further review of the
5 complaint by Commission staff. Commission staff will then propose
6 a resolution of the complaint. The proposed resolution to the
7 customer may be either oral or written. Upon request of either the
8 customer or the company, Commission staff shall provide the
9 proposed resolution in writing.

10 (e)(b) Commission ~~The staff member investigating the~~
11 ~~complaint~~ may request copies of bills, billing statements, field
12 reports, written documents, or other information in the
13 participants' possession that may be necessary to resolve the
14 dispute. The company shall respond in 7 working days to each
15 subsequent request by staff after the initial company response. If
16 a complete response cannot be provided in the 7 working days, the
17 company shall provide an update regarding the response every 15
18 working days until the response is completed. Such update shall
19 identify all actions taken since the last report, an explanation of
20 why a complete response cannot be provided, and a time schedule for
21 providing a complete response. Commission ~~The staff member~~ may
22 perform, or request the company to perform, any tests, on-site
23 inspections, and reviews of company records necessary to aid in the
24 resolution of the dispute.

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

12 (7) Process Review Team.

13 (a) If the customer or the company is not in agreement with
14 Commission staff's proposed resolution, the Division of Consumer
15 Affairs will refer the complaint to a Process Review Team
16 consisting of staff from the Office of the General Counsel, the
17 Division of Consumer Affairs, and the appropriate technical
18 division. This Process Review Team will review the complaint file
19 to determine further handling of the complaint.

20 (b) If the Process Review Team finds that the subject matter
21 of the complaint may be within the Commission's jurisdiction, that
22 the relief sought can possibly be granted by the Commission, that
23 the basis of the complaint is not an objection to current statutes,
24 rules, company tariffs, or orders of the Commission, and that a
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3 violation of an applicable statute, rule, company tariff or order
4 of the Commission may have occurred, the Division of Consumer
5 Affairs shall schedule an informal conference. The fact that an
6 informal conference is scheduled shall not preclude any participant
7 or Commission staff from later taking a position that the complaint
8 does not fall into one or more of the above categories.

9 (c) The Process Review Team will recommend that the Office of
10 the General Counsel send a closure letter to the participants if
11 the team finds that:

12 1. The case involves issues or concerns that fall outside
13 the jurisdiction of the Commission,

14 2. The relief sought cannot be provided by the Commission,

15 3. The basis of the complaint is an objection to current
16 statutes, rules, company tariffs, or orders of the Commission, or

17 4. It does not appear that a violation of applicable
18 statutes, rules, company tariffs, or orders of the Commission
19 occurred.

20 (d) Once the closure letter has been sent, the case will be
21 closed. The staff member will propose a resolution of the complaint
22 based on the information provided by all participants to the
23 complaint and applicable statutes and regulations. The proposed
24 resolution may be either oral or written. Upon request, either
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3 ~~participant shall be entitled to a written copy of the proposed~~
4 ~~resolution.~~

5 (8) Informal Conference.

6 (a) If the Process Review Team identifies a complaint for an
7 informal conference, Division of Consumer Affairs staff will notify
8 the company and provide to the customer a Dispute Resolution Form
9 PSC/CAF10 (XX/OX), incorporated herein by reference, via certified
10 mail. The customer shall return the completed Dispute Resolution
11 Form PSC/CAF10 to the Division of Consumer Affairs postmarked
12 within 15 working days after the date of its being sent to the
13 customer. If the completed Dispute Resolution Form PSC/CAF10 is
14 not received from the customer with a postmark within the required
15 15 working days, the customer's complaint will be closed at that
16 point. If the Dispute Resolution Form is completed and returned by
17 the customer, Commission staff will provide a copy to the company.

18 (b) A customer's completed Dispute Resolution Form PSC/CAF10
19 shall consist of:

20 1. A statement describing the facts that give rise to the
21 complaint and, to the extent known, an explanation of why the basis
22 of the complaint may be a violation of the applicable statutes,
23 rules, company tariffs, or orders of the Commission. The
24 statements filed by the customer should not raise any new issues
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3 not addressed in the initial complaint.

4 2. A statement of the issues to be resolved.

5 3. Any dollar amount in dispute.

6 4. A statement of the relief requested.

7 ~~If a participant objects to the proposed resolution, the~~
8 ~~participant may request an informal conference on the complaint.~~

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

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

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

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

24 ~~3. A statement of the relief requested.~~

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3 ~~The informal conference shall be limited to the complaint and the~~
4 ~~statement of facts and issues identified by the participants in the~~
5 ~~form. The Commission staff will notify the requesting participant~~
6 ~~that the request for an informal conference will be denied if the~~
7 ~~requesting participant's form is not received within the 15 days.~~

8 (c) Staff handling the informal conference may permit a Any
9 participant may to file additional information, documentation, or
10 arguments; however, such additional information, documentation or
11 arguments shall be limited to the issues from the customer's
12 original complaint which are identified in the customer's Dispute
13 Resolution request Form PSC/CAF10.

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

19 (d) When an informal If a conference is scheduled granted,
20 the presiding staff member appointed to conduct the conference
21 shall not have participated in the investigation or proposed
22 resolution of the complaint. The appointed staff shall be
23 comprised of a representative of the Division of Consumer Affairs
24 staff, an attorney from the Office of the General Counsel, and a

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3 staff member from appropriate technical staff. The representative
4 from the Division of Consumer Affairs will preside at the informal
5 conference.

6 (e) ~~After consulting with the participants, the~~ After
7 receiving the Dispute Resolution Form from the customer, Commission
8 ~~staff member~~ will send a written notice to the participants setting
9 forth the unresolved issues, the procedures to be followed at the
10 informal conference, and the dates by which written materials are
11 to be filed ~~and the time and place for the conference.~~ A company
12 may at this time respond to information contained on the customer's
13 Dispute Resolution Form. Each participant may be represented at
14 the informal conference by an attorney or other representative or
15 may represent himself. Each participant shall be responsible for
16 his own expenses in the handling of the complaint. The conference
17 may be held no sooner than ten days following a notice, unless all
18 participants agree to an earlier date. The conference may be held
19 ~~by telephone conference, video teleconference, or in person, no~~
20 ~~sooner than ten days following the notice.~~

21 (f) At the conference, the participants shall have the
22 opportunity to present information, orally or in writing, in
23 support of their positions. During the conference, ~~the~~ staff
24 ~~member~~ may encourage the parties to resolve the dispute. The
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3 Commission staff will be responsible for tape-recording, but not
4 transcribing, the informal conference. A participant may arrange
5 for transcription at his own expense.

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

9 (gh) If a settlement is not reached within 20 working days
10 following the informal conference and if the complaint is not
11 withdrawn, or the last post-conference filing, whichever is later,
12 the staff member shall submit a recommendation to the Commission
13 for consideration at the next available Commission Agenda
14 Conference. Copies of the recommendation shall be sent to the
15 participants by the Office of the General Counsel.

16 ~~(i) If the Director denies the request for an informal~~
17 ~~conference, the participants shall be notified in writing. Within~~
18 ~~20 days of giving notice, the staff shall submit a recommendation~~
19 ~~for consideration at the next available Agenda Conference. Copies~~
20 ~~of the recommendation shall be sent to the participants.~~

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

24 ~~(9) At any point during the complaint proceedings, a~~
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3 ~~participant has the right to be represented by an attorney or other~~
4 ~~representative. For purposes of this rule a representative may be~~
5 ~~any person the party chooses, unless the Commission sets the matter~~
6 ~~for hearing. If the Commission sets the matter for hearing, the~~
7 participants may be represented by an attorney or a qualified
8 representative as prescribed in Rule 28-106.106, Florida
9 Administrative Code, or may represent themselves. Each participant
10 shall be responsible for his own expenses in the handling of the
11 complaint.

12 ~~(9)-(10)~~ Settlement.

13 At any time the participants may agree to settle their
14 dispute. If a settlement is reached, the participants or their
15 representatives shall file with the Division of Consumer Affairs a
16 written statement to that effect. The statement shall indicate
17 that the settlement is binding on all both participants, and that
18 the participants waive any right to further review or action by the
19 Commission. If the complaint has been docketed, the Division of
20 Consumer Affairs shall submit the settlement to the Commission for
21 approval. If the complaint has not been docketed, the Division of
22 Consumer Affairs will acknowledge the statement of settlement by
23 letter to the participants.

24 ~~(10)-(11)~~ Record Retention, Reports, and Auditing.

25
CODING: Words underlined are additions; words in ~~struck~~
through type are deletions from existing law.

1 DOCKET NO. 030575-PU
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3 (a) All companies shall retain ~~notes~~ or documentation
4 relating to each Commission complaint for two years after the date
5 ~~beginning when~~ the complaint was closed by the Commission first
6 received.

7 (b) All companies that participate in the telephone-transfer
8 connect, E-mail transfer or three day complaint resolution options
9 shall file with the Commission's Division of Consumer Affairs, by
10 the fifth working day of each month beginning 60 days after the
11 effective date of this rule and monthly thereafter, a report in
12 tabular form that summarizes the following information for the
13 preceding calendar month:

14 1. The ~~total~~ number of calls handled via telephone transfer-
15 connect, including the date received, customer's name, a brief
16 description of the complaint, and whether ~~or not~~ the complaint was
17 addressed;

18 2. The number of complaints handled via E-mail transfer,
19 including the date received, the customer's name, the Commission
20 assigned tracking number, a brief description of the complaint, and
21 whether the complaint was addressed.

22 ~~3.~~ 3. The number of complaints handled under the three day
23 complaint resolution procedure, including the date received, the
24 customer's name, the Commission assigned filing number, a brief
25

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3 description of the complaint, and whether the complaint was
4 resolved.

5 (c) Companies shall provide access to the Commission to all
6 such records for audit purposes. ~~The Commission shall have access~~
7 ~~to all such records for audit purposes.~~

8 (11) Extensions of Time.

9 (a) In the event of a storm named by the National Hurricane
10 Center, a tornado recorded by the National Weather Service, a
11 flood, a telephone cable cut, a severe gas or water main break, a
12 major electrical outage, an extreme weather disturbance or fire
13 causing activation of the county emergency operation center, acts
14 of terrorism, or work stoppage, any of which substantially affects
15 its operations and resources, a company may file a notice which
16 will automatically extend by three working days the time for filing
17 responses, forms, reports and other submissions required by this
18 rule. Such notice shall be submitted in writing to the Director of
19 the Division of Consumer Affairs and shall state a reason for the
20 three day extension. The utility will send one written request
21 that will apply to all complaints or reports pending or received
22 during the extension period. When the company does provide
23 complaint responses or reports containing information on complaints
24 affected by an extension of time, the extension must be noted on
25

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1 DOCKET NO. 030575-PU
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3 the complaint or report. For complaints, the three day extension
4 shall apply to any complaints pending at the time such notification
5 is given and to new complaints received during the extension
6 period. A company may also seek an additional extension of time
7 upon application to the Director of the Division of Consumer
8 Affairs. The request for additional extension of time must be
9 accompanied by a statement of good cause and shall specify the date
10 by which the information will be filed. "Good cause" means a
11 demonstration that the company has worked diligently to prepare the
12 information and that the additional time period requested to
13 complete and submit the information is both reasonable and
14 necessary given the company's particular circumstances.

15 (b) If the company participates in the transfer connect
16 system described in subsection (4), and the circumstances described
17 in paragraph (11)(a) affect the operation of the transfer connect
18 system, the company may establish an alternative, temporary means
19 of transmitting customer concerns from the Commission to the
20 company for handling within the transfer connect program.

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

23 Law Implemented 364.01, 364.0252, 364.03(1), 364.183, 364.185,
24 364.15, 364.19, 364.337(5), 366.03, 366.04, 366.05, 367.011,
25

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through type are deletions from existing law.

1 | 367.111, 367.121, 120.54, 120.569, 120.57, 120.573, FS.
2 | History--New 01-03-89, Amended 10-28-93, 06-22-00, XX-XX-XX:

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

Identify the issue(s) to be resolved. _____

Identify any specific dollar amount in dispute, if applicable. _____

Provide a suggested resolution or the relief sought. _____

NOTICE: This form must be postmarked by _____. Failure to provide this information may result in denial of the informal conference request.

Form PSC/CAF10 (XX/0X) [G:\PSC Forms\redo form PSCCAF10.pr.wpd]

JAMES E. "JIM" KING, JR.
President

JOHNNIE BYRD
Speaker



THE FLORIDA LEGISLATURE
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Telephone (904) 488-9110

October 2, 2003

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
PUBLIC SERVICE COM. 10-3-03
3:33 PM

Ms. Samantha Cibula
Public Service Commission
Office of the General Counsel
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Public Service Commission Rule 25-22.032

Dear Ms. Cibula:

I have completed a review of rule 25-22.032 and prepared the following comments for your consideration and response.

25-22.032

(6)(b): What are the criteria pursuant to which the Commission staff will request that a company not make direct contact with a customer?

(8)(a): In order to comply with section 120.55(1)(a)4., F.S., the rule should state that the form is incorporated by reference and include an effective date.

(8)(c): The rule provides that staff "may" permit a participant to submit additional items; however, no standards or criteria are disclosed to apprise the reader of whether or not permission will be granted under any circumstances. This renders the rule objectionable pursuant to section 120.52(8)(d), F.S. The rule should be amended accordingly.

(11)(a): What are the criteria pursuant to which a request for additional time will be granted? Likewise, what are the criteria pursuant to which the time of such extension will be set?

DOCUMENT NUMBER-DATE

09668 OCT-6 03

FPSC-COMMISSION CLERK

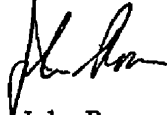
Ms. Samantha Cibula
October 2, 2003
Page 2

Form PSC/CAFIO

The form provides that failure to provide the information "may" result in denial of the request for a conference. The use of the term "may" in this manner renders the form objectionable for the reasons described above.

I am available at your convenience to discuss the foregoing comments.

Sincerely,



John Rosner
Chief Attorney