

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Petition for rulemaking by David Brian Wallace and Edward A. Slavin, Jr. | DOCKET NO. 060153-PU

In re: Second petition for rulemaking by David Brian Wallace and Edward A. Slavin, Jr. | DOCKET NO. 060168-PU  
ORDER NO. PSC-06-0222-PCO-PU  
ISSUED: March 17, 2006

ORDER DENYING PETITIONS TO INITIATE RULEMAKING

BY THE COMMISSION:

On February 15, 2006, David Brian Wallace and Edward A. Slavin, Jr. filed a Petition for Rulemaking with the Commission. The petition contains a list of 33 separate actions the Commission is asked to take with regard to the operations of several industries—some regulated by the Commission and some that are not—and with the internal operations of this Commission. On February 27, 2006, a "Second Petition for Rulemaking" containing requests numbered 34 and 35 was sent to the Commission by Messrs. Wallace and Slavin. This second petition asks the Commission to forbid utilities from connecting service to any structure, organization or person in certain circumstances, and to "[r]evoke . . . all regulations that improperly delegate core government regulatory functions to regulated utilities, . . ."

Section 120.54(7)(a), Florida Statutes, provides that a petition to initiate rulemaking may be filed by "any person regulated by an agency or having a substantial interest in any agency rule." This statutory standing requirement is implemented by Rule 28-103.006(1), Florida Administrative Code, which provides that "[a]ll petitions to initiate rulemaking must contain the facts showing that the petitioner is regulated by the agency or has a substantial interest in the rule or action requested." Neither of the petitions contain any facts to show that Mr. Wallace and Mr. Slavin are either regulated by this Commission or that they have a substantial interest in each of the requested rules.

Section 120.54(7)(a), Florida Statutes, also requires a petition to "specify the proposed rule and action requested." Rule 28-103.006(1), Florida Administrative Code, requires the petition to contain the reasons for the rule or action requested. While the two petitions from Messrs. Wallace and Slavin together ask for 35 actions, the petitioners do not identify what rules these requests are directed to, or any facts or reasoning to justify proposing a new rule. Without such information, it is difficult for the Commission to respond in a meaningful way.

The petitions to initiate rulemaking are therefore denied for failure to allege standing and to otherwise comply with Section 120.54(7), Florida Statutes, and Rule 28-103.006, Florida Administrative Code, governing the contents of a petition to initiate rulemaking. The petitioners

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may at any time file a new petition that complies with Rule 28-103.006, Florida Administrative Code, and Section 120.54(7), Florida Statutes.

Accordingly, it is

ORDERED that the Petition for Rulemaking and Second Petition for Rulemaking filed on February 15, 2006, and February 27, 2006, respectively, are denied.

ORDERED that these dockets should be closed.

By ORDER of Chairman Lisa Polak Edgar, as Presiding Officer, this 17th day of March, 2006.



LISA POLAK EDGAR  
Chairman and Presiding Officer

( S E A L )

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#### NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569( 1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.