

State of Florida



# 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-**

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COMMISSION CLERK

**DATE:** November 17, 2009

**TO:** Office of Commission Clerk (Cole)

**FROM:** Office of the General Counsel (Miller) *CM SMC*  
 Office of Commission Clerk (Cole) *ac*  
 Division of Economic Regulation (Hewitt) *CBH*  
 Chief Information Officer (Kissell) *LK*

**RE:** Docket No. 090502-OT – Initiation of rulemaking to amend Rules 25-22.105, 25-22.107 and 25-22.1035, and repeal Rule 25-22.103, F.A.C.

**AGENDA:** 12/01/09 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Commissioner David E. Klement

**RULE STATUS:** Proposal may be deferred

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\ECR\WP\090502.RCM.DOC

DOCUMENT NUMBER-DATE  
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FPSC-COMMISSION CLERK

### **Case Background**

The Commission published a Notice of Rule Development in the October 23, 2009 edition of the Florida Administrative Weekly, indicating the intent to amend Rule 25-22.105, Florida Administrative Code (F.A.C.), System for Indexing Orders, Rule 25-22.107, F.A.C., Plan for Making Orders Available to the Public, and Rule 25-22.1035, F.A.C., Designation of Official Reporter, and to repeal Rule 25-22.103, F.A.C., Orders Indexed. These rules relate to the Commission's process for making orders available to the public, for indexing the orders, and for the Official Reporter.

At the August 18, 2009, Internal Affairs, the Commission discussed the possibility of becoming its own Official Reporter through an electronic database, as authorized by Section 120.53, F.S. On October 6, 2009, the Commission received approval from the Department of State to proceed with this approach.

A rule development workshop was held November 9, 2009. Two interested persons attended, and no concerns were expressed about the Commission becoming its own Official Reporter.

This recommendation addresses whether the Commission should propose amendments to Rules 25-22.105, 25-22.107, 25-1.035, F.A.C., and repeal Rule 25-22.103, F.A.C. This Commission has jurisdiction pursuant to Section 120.53, F.S., and Section 120.54, F.S.

### Discussion of Issues

**Issue 1:** Should the Commission propose the amendment of Rules 25-22.105, 25-22.107, and 25-22.1035, F.A.C. and the repeal of Rule 25-22.103, F.A.C.

**Recommendation:** Yes. The Commission should propose the amendment of Rules 25-22.105, 25-22.107, 25-22.1035, F.A.C., and the repeal of Rule 25-22.103, F.A.C., as set forth in Attachment A. (Miller, Cole, Kissell)

**Staff Analysis:** The attached rule revisions would place the Commission in the role of being its own Official Reporter. This would be implemented through the Commission's website which provides an electronic database of the Commission's orders. This would take place January 1, 2010, with the prior orders being located in the FPSC Reporter, published by FALR.

- Rule 25-22.105, System for Indexing Orders, is amended to refer to the Commission's electronic database on the Commission's website. The amendments also refer to the advanced search feature for orders.
- Rule 25-22.107, Plan for Making Orders Available to the Public, is amended to state that copies of orders are maintained electronically at the Commission's website.
- Rule 25-22.1035, Designation of Official Reporter, is amended to make the Commission's website the Official Reporter from January 2010 forward.
- Rule 25-22.103, Orders Indexed, is repealed because there is no need for orders to be "indexed" when an electronic database is used instead.

### Statement of Estimated Regulatory Cost (SERC)

The SERC (Attachment B) notes that there should be no incremental costs for the Commission because the electronic data base currently exists and is available to the public. There would be benefits in saving staff time to reproduce and mail the orders to the publisher and the associated reproduction and mailing costs. Also, customers, utilities and business entities would know that Commission orders are available online and may obtain access to the orders without subscribing to a publication.

Based upon the above, staff recommends that the Commission propose the amendment of Rules 25-22.105, 25-22.107, and 25-22.1035, F.A.C., and the repeal of Rule 25-22.103, F.A.C., as set forth in Attachment A.

Docket No. 090502-OT  
Date: November 17, 2009

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

**Recommendation:** Yes. (Miller)

**Staff Analysis:** If no comments or requests for hearing are filed, the rules may be filed with the Department of State and the docket closed.

1 **25-22.103 Orders Indexed.**

2 ~~All Commission orders shall be indexed.~~

3 Rulemaking Specific Authority 120.533 FS. Law Implemented 120.53(2)(a)3., (2)(d) FS.  
4 ~~History—New 9-24-92, Amended 12-27-94, Repealed \_\_\_\_\_.~~

5 **25-22.1035 Official Reporter for Final Orders**~~Designation of Official Reporter.~~

6 The official reporter of the Florida Public Service Commission shall be its Web site  
7 www.psc.state.fl.us/dockets/cms, effective January 1, 2010. ~~the Florida Public Service~~  
8 ~~Commission Reporter (FPSCR), published by FALR, Inc. The official reporter shall index~~  
9 ~~orders of the Commission as required by Rule 25-22.103, F.A.C. The Florida Public Service~~  
10 Commission Reporter (FPSCR) published by FALR will remain the designated official  
11 reporter for final orders from January 1981 to December 31, 2009, ~~and shall publish the index~~  
12 ~~and all orders.~~ The Florida Public Service Commission Reporter is found at some county law  
13 libraries and is available by subscription at the offices of FALR, Inc., P. O. Box 385,  
14 Gainesville, FL 32602. A copy of the Florida Public Service Commission Reporter is also  
15 available for public inspection at the Office of Commission Clerk.

16 Rulemaking Specific Authority 120.532, 120.533 FS. Law Implemented 120.53(2)(a)3.,  
17 120.53(2)(d), 120.53(4)(a) FS. History—New 12-27-9, Amended \_\_\_\_\_.

18 **25-22.105 Electronic Database of Orders and Other Records**~~System for Indexing Orders.~~

19 (1) The Commission's electronic database ~~The index~~ shall be available from the  
20 Commission's Web site located at www.psc.state.fl.us/dockets/cms. ~~and alphabetically~~  
21 ~~arranged by main subject headings representing major categories of the Commission's~~  
22 ~~regulatory jurisdiction, and taken from the Florida Statutes index, when applicable. The~~  
23 ~~applicable titles of citations of the Florida Statutes construed within the final order may~~  
24 ~~determine the main subject headings and subheadings in the index. The index shall show the~~  
25 ~~main subject headings in all capital letters, flush left on the page, followed by relevant~~

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

1 ~~subheadings which shall be initial caps and lower case letters indented. Subheadings and sub-~~  
2 ~~subheadings shall reflect increasingly specific areas or subjects addressed in Commission~~  
3 ~~orders and may be taken from the text of the Florida Statutes construed. Subheadings and sub-~~  
4 ~~subheadings at equal indentations shall also be alphabetized. The FPSCR citation to orders~~  
5 ~~shall be listed sequentially in an indentation immediately below the applicable sub or sub-~~  
6 ~~subheading. Cross references shall be used to direct the user to subject headings which contain~~  
7 ~~the relevant information. The database shall include the ability to electronically search dockets~~  
8 ~~by docket number, docket title, and document number. The ability to search by rRelated key~~  
9 ~~words (specific words, terms, and phrases) and common and colloquial words shall be~~  
10 ~~available from the “advanced search” feature on the main search page of the Commission’s~~  
11 ~~Web site at http://www.floridapsc.com/search. Orders within this database may be searched~~  
12 ~~using logical search terms that are in common usage, that are also contained within the text of~~  
13 ~~the final orders, or by descriptive information about the order that may not be specifically~~  
14 ~~contained in the order. From the Category drop-down selection on the “advanced search”~~  
15 ~~feature for Orders, the search may optionally be further restricted. listed and cross-referenced~~  
16 ~~to the appropriate main subject headings. New subject headings will be added when necessary.~~

17 (2) Information shall be added to the Commission’s Web site within 24 hours of the  
18 issuance of the document by the Office of Commission Clerk.~~The index shall be cumulative~~  
19 ~~for at least one calendar year and shall be updated and made available to the public at least~~  
20 ~~quarterly.~~

21 Rulemaking~~Specific~~ Authority 120.533(1)(f) FS. Law Implemented 120.53(2)-(4) FS.

22 History—New 9-24-92, Amended 12-27-94,\_\_\_\_\_.

23 **25-22.107 Plan for Making Orders and Index Available to the Public.**

24 (1) The Commission shall make orders accessible and available to the public by  
25 sequentially numbering and maintaining all orders.

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1           (2) The Office of Commission Clerk shall assist the public in obtaining information  
2 pertaining to Commission orders and may be contacted at (850)413-6770 or at  
3 Clerk@psc.state.fl.us Questions may also be faxed to (850)413-7118.

4           (3) Copies of orders, ~~in numerical order,~~ and a copy of the Commission's official  
5 ~~reporter~~ shall be maintained in ~~the offices of~~ the Office of Commission Clerk and  
6 electronically at the Commission's Web site, www.psc.state.fl.us/dockets/cms.  
7 Rulemaking Specific Authority 120.53(2), (8) FS. Law Implemented 120.52(2) FS. History-  
8 New 9-24-92, Amended 12-27-94,\_\_\_\_\_.

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10 AMEND/Draft Rule Revisions 25-22.cm.doc

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**DATE:** October 30, 2009  
**TO:** Office of General Counsel (Miller)  
**FROM:** Division of Economic Regulation (Hewitt) *CBH JH*  
**RE:** Proposed Amendments of Rule 25-22.105, F.A.C., System for Indexing Orders; Rule 25-22.107, F.A.C., Plan for Making Orders and Index Available to the Public; and Rule 25-22.0135, F.A.C., Designation of the Official Reporter. Proposed Repeal of Rule 25-22.103, F.A.C., Orders Indexed.

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DETAILED DESCRIPTION OF THE PROPOSED RULE AMENDMENTS

*Why are the rule changes being proposed?*

The rule amendments are being proposed to make the Commission's web site the official reporter publisher for final orders to provide free and timely access to final orders, describe the availability of the Commission's electronic data base, and to provide contact information for the public to inquire about Commission orders. The rule repeal would be to eliminate unnecessary rule language.

*What do the rules do and how do they accomplish the goal?*

The rules currently specify that all Commission orders shall be indexed and the method to be used, and that the official reporter for Commission orders shall be the Florida Public Service Commission Reporter (FPSCR) published by FALR, Inc.

IMPACT ON THE PSC

*Incremental costs*

There should be no incremental costs for the Commission because the electronic data base currently exists and available to the public.

*Incremental benefits*

There would be benefits in saving staff time to reproduce and mail the orders to the publisher and the associated reproduction and mailing costs.



WHO BESIDES THE PSC WILL BE AFFECTED BY ADOPTION OF THE PROPOSED AMENDMENTS

*Utilities*

Regulated companies would know that Commission orders are available online and would not have to spend travel time and money to obtain access to the orders or have to subscribe to the publication of Commission orders.

*Customers*

Customers of regulated companies would know that Commission orders are available online and would not have to spend travel time and money to obtain access to the orders or have to subscribe to the publication of Commission orders.

*Outside business and local governments*

Small businesses, small cities or small counties would know that Commission orders are available online and would not have to spend travel time and money to obtain access to the orders or have to subscribe to the publication of Commission orders.

HOW ARE THE PARTIES ABOVE AFFECTED BY THE ADOPTION OF THE PROPOSAL

*Estimated transactional costs to individuals and entities*

*Utilities*

There are no regulated utilities or companies that would have transactional costs.

*Customers*

No customers would have transactional costs.

*Outside businesses including specifically small businesses*

Outside businesses should not have transactional costs except FALR, Inc. which would lose some number of its subscribers for the FPSCR at \$1,900 per subscription per year.

*Local governments*

Local governments should have no transactional costs from the rule changes.

ANY OTHER PERTINENT COMMENTS REGARDING THE APPLICATION OF THE PROPOSED RULE AMENDMENTS

No other pertinent comments are germane to the proposed rule repeals.

CH:kb  
cc: Mary Andrews Bane  
Chuck Hill  
Ann Cole