

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 110313-PU

INITIATION OF RULEMAKING TO  
REPEAL RULE 25-6.019, AND TO  
AMEND RULES 25-6.0345, 25-6.060,  
25-7.059, 25-7.060, 25-7.061,  
25-7.062, 25-7.064, 25-7.065,  
25-7.066, 25-7.070, 25-7.071,  
25-7.084, 25-12.005, 25-12.008,  
25-12.027, 25-12.052, AND  
25-12.082, F.A.C.

PROCEEDINGS: STAFF WORKSHOP

TAKEN AT THE  
INSTANCE OF: The Staff of the Florida  
Public Service Commission

DATE: Thursday, January 19, 2012

TIME: Commenced at 9:30 a.m.  
Concluded at 9:57 a.m.

PLACE: Betty Easley Conference Center  
Hearing Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR  
Official FPSC Reporter  
(850) 413-6732

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## P R O C E E D I N G S

1  
2 MS. COWDERY: Good morning. Pursuant to  
3 notice, this time and place has been set for a Staff  
4 Rule Development Workshop in Docket Number 110313-PU to  
5 take input from interested persons on the repeal of  
6 Rule 25-6.019, and amendment of Rules 25-6.0345 and  
7 25-6.060 relating to electric utility accident  
8 notification, safety standards, and meter testing  
9 rules. And also amendment of Rules 25-7.059, 25-7.060,  
10 25-7.061, .062, .064, .065, .066, .070, .071, .084,  
11 25-12.005, 25-12.008, 25-12.027, 25-12.052, and  
12 25-12.082, which relate, in general, to gas meters, and  
13 safety, and gas transportation by pipeline.

14 I'm Kathryn Cowdery with the Office of General  
15 Counsel. Also here on behalf of staff are Bill McNulty,  
16 Rick Moses, Bob Trotter, and Anita Black. There are  
17 sign-in sheets at the back of the room. If you haven't  
18 signed in, please do so, so we can have a record of your  
19 attendance.

20 The materials for today's workshop are also on  
21 the back podium. These are the same materials that were  
22 sent to the utilities in the notice. They have not been  
23 modified, so if you have brought your own copy it should  
24 be the same. They are also posted on the Commission's  
25 website in the notice of staff workshop section.

1           Does anyone have any preliminary matters or  
2 questions at this time? Okay. Mr. Moses will now  
3 explain proposed rule amendments in the order presented  
4 in the agenda.

5           MR. MOSES: Good morning. I thought we would  
6 just start out just going by each rule. I know there  
7 has been prefiled comments on three of the rules, and  
8 it just so happens they are the first ones up. So if  
9 the company would like to explain your comments on the  
10 first rule, please.

11           MR. BEASLEY: Yes. Thank you. I'm Jim  
12 Beasley, I'm here on behalf of Tampa Electric Company.  
13 And with me is Mr. William Ashburn, who's Director of  
14 Pricing and Financial Analysis for Tampa Electric.

15           We appreciate you convening this workshop. We  
16 share a lot of the same goals that the staff has as far  
17 as improving the rules and getting them where they are  
18 workable and understandable and such that we can comply  
19 with them and find in the rules the requirements that  
20 are there.

21           On the first rule, 25-6.019, notification of  
22 accidents, we, in looking through the proposed rule  
23 drafts, noticed that -- and staff did as well -- that  
24 notification of accidents is addressed in two places  
25 under the current rules. The first being in the rule I

1 just mentioned, 25-6.019, and then also in Subsection 5  
2 of Rule 25-6.0345. That second rule, .0345, addresses  
3 several topics, and we noticed that the staff had  
4 suggested deleting Rule 25-6.019 and leaving the  
5 notification of accidents in 25-6.0345. We thought it  
6 would be easier to locate and comply with the  
7 notification requirements if you leave Rule 25-6.019 as  
8 a stand-alone rule having to do with notification. So  
9 we wouldn't have to go searching for it as a part of  
10 another rule that didn't have a title regarding  
11 notification of accidents. That was our suggested --  
12 not really a substantive change, but how to set it out  
13 where you can locate the requirements for notifications.

14 We did have some substantive suggestions with  
15 respect to that rule, and they include converting the  
16 reference to accidents to events so that the utility,  
17 you know, goes ahead and notifies you, the Commission,  
18 when something occurs that causes the damage or injury  
19 described in the rule, rather than having to try to  
20 differentiate between whether it was an accident or  
21 something other than an accident that caused that injury  
22 or damage.

23 We also suggested, since the Subsection 5 in  
24 25-6.0345 addresses both investor-owned utilities and  
25 rural electric cooperatives and municipal electric

1 utilities, that that same applicability be incorporated  
2 into Rule 25-6.019. We concurred with the staff's  
3 proposed increase in the property damage limit from  
4 \$5,000 to \$10,000, and made a couple of other minor  
5 suggested wording changes that are set forth in the  
6 letter that we submitted to the staff on January 13.

7 So those sort of summarize our suggestions.  
8 They are all contained in the type-and-strike version of  
9 that rule attached to the letter. And if you have any  
10 questions about that, we'd be happy to respond.

11 MR. MOSES: One other item that has come to  
12 my attention during getting some of these notifications  
13 over the past few months is a lot of them are brought  
14 in telephonic, some of them are e-mailed to us, once in  
15 a great while we'll get one in writing as a letter  
16 form, which takes a lot longer. What the staff is  
17 considering is putting in some wording in there about  
18 filing these electronically in the form of an e-mail to  
19 us so we get -- here is the problem I run into. My  
20 staff gets a telephone call from the industry, and they  
21 are sitting there having to transcribe what they are  
22 being told, and you know how mistakes can happen during  
23 that time. Then if we get an inquiry from somebody  
24 from the outside about a certain accident and they want  
25 information, that's a public record, now it's in error,

1 it's not accurate. And we are thinking of putting that  
2 in there to see if they can be done electronically,  
3 that way we have got the information directly from the  
4 industry. Does anybody got any comments on that idea?

5 MR. ASHBURN: Yes. This is Bill Ashburn. We  
6 are fine with that. Electronic filings are the rage  
7 and we do a lot of that. We encourage it where we can.  
8 It saves us effort, as well, having to mail things and  
9 all that stuff. So we're fine with that. You know, we  
10 didn't take a position one way or the other on how to  
11 notify, because it just says notify. And I'm sure  
12 given all the people that are doing it are doing it  
13 different ways, so whatever way you want to do it is  
14 fine with us. And e-mail sounds fine.

15 MR. MOSES: Thank you.

16 MR. WHITE: Mr. Moses, this is Jordan White  
17 with FPL. For FPL, this is a significant issue. We  
18 have had a longstanding practice of providing these  
19 verbally, and this is for a particular reason of  
20 preserving evidentiary issues. And, you know, because  
21 of the volume of litigation that we have surrounding  
22 these kinds of things, it's important for us to  
23 maintain the current practice of providing these  
24 verbally. If we provide it, you know, ourself in a  
25 written format, nobody is going to create an issue in

1 terms of, you know, efficiency, attorney review,  
2 et cetera. It's just a concern for us that if we  
3 provide those it's going to be a document we're  
4 providing that is going to expose us to potential  
5 discovery issues. So that is a concern of ours.

6 MR. MOSES: Well, I'm not an attorney,  
7 obviously, so I've just got a question for you. How  
8 does anything change as far as your litigation or  
9 anything of that nature if you verbally give it to us  
10 or give it to us in an e-mail?

11 MR. WHITE: When we verbally give it to you,  
12 it is a subtle distinction that if we provide it  
13 verbally and that is something that the Commission  
14 actually, you know, constructs the document themselves,  
15 it's different than when we actually provide a document  
16 in terms of how we can object to that as leading into  
17 discovery. I know it's a very, you know, a subtle  
18 distinction, but it's important from a litigation  
19 standpoint, and it has been an issue in the past. And,  
20 again, I know that it's done differently with other  
21 utilities, but we have a high volume of litigation, and  
22 it's probably a little bit different than some of the  
23 other folks.

24 MR. MOSES: But nothing in the existing rule  
25 says that you can do it verbally, is that correct?

1           MR. WHITE: That's correct, but certainly  
2 nothing says that it's required to provide the report  
3 in a written format, either. And, again, it has been a  
4 longstanding practice and, you know, again, that's  
5 important to us.

6           MR. MOSES: Okay. Anybody else have any  
7 comments on that?

8           MS. COWDERY: This is Kathryn Cowdery. I  
9 would appreciate some additional comments concerning  
10 TECO's proposed 25-6.019, adding new section,  
11 Subsection 4. Not at this time, but some post-workshop  
12 comments concerning the appropriateness or statutory  
13 authority of the Commission to have language such as  
14 the interval, that would be helpful.

15           MR. BEASLEY: Surely. That language  
16 primarily is designed to encourage the utilities to  
17 make the reports so that they don't feel like they  
18 would suffer some sort of liability for reporting an  
19 event that causes accident or injury as described in  
20 the rule. And that can be addressed by the courts if  
21 there's an action brought, but it just makes it clear  
22 that by doing this it is not to be construed as any  
23 kind of liability on the part of the utilities. It's  
24 simply reporting to the Commission the information that  
25 you need.

1           MR. MOSES: Okay. Anybody else have any  
2 comments on that particular rule? Then we will move on  
3 to the next one. If you want to go ahead and explain  
4 your -- I think you may have explained most of it, but  
5 if you want to go ahead and explain your changes in  
6 this rule.

7           MR. BEASLEY: Right. 25-6.0345, as I  
8 mentioned earlier, addresses several topics, one of  
9 which is the accident reporting that we suggested that  
10 you retain in Rule 25-6.019. The other two topics  
11 addressed in 25-6.0345, the first is safety standards  
12 for construction of new transmission and distribution  
13 facilities, and we have suggested that that be a  
14 stand-alone rule that addresses the National Electric  
15 Safety Code. The new safety code that was adopted last  
16 year becomes effective, I think, February 1, next week.  
17 So the suggestion that we made was to refer to that  
18 rule, to that NESC code in this rule, and that would  
19 make the rule pretty timely and right on point with the  
20 implementation of the new NESC.

21           Since that code does refer to prior  
22 construction as well as current construction and  
23 explains in the NESC which code governs, depending upon  
24 when the construction was made, we believe that the only  
25 reference in the rule that you need is to the new code,

1 the 2012 edition. And it, of course, will explain which  
2 particular code applies to the construction based on  
3 when it was performed. That kind of streamlines the  
4 rule and makes it a little easier to follow.

5 MR. MOSES: Is that edition of the code  
6 available for purchase now, do you know, or is it not  
7 out until February?

8 MR. BEASLEY: It is out and it's available,  
9 and I think the utilities have purchased it. I have  
10 the Section 13 having to do with application, which  
11 explains which code applies to which construction. If  
12 you would like to have that, I will offer it into the  
13 record as part of post-workshop comments.

14 MR. MOSES: That will be fine. Thank you.

15 MR. BEASLEY: Okay.

16 MR. MOSES: Anyone else have any comments on  
17 that rule?

18 MR. BEASLEY: I did have -- the portion of  
19 the rule there pertaining to quarterly reports, we  
20 would suggest that you break that out as a separate  
21 rule so that it is kind of a one subject thing where  
22 25-6.0345 would address the NESC safety standard, and  
23 then our proposal to have -- the 25-6.0346 would  
24 address the quarterly reports that are currently  
25 required in the rule, and they would leave open the

1 opportunity to file electronically without showing a  
2 lot of detail about what the format is, so that the  
3 format can evolve of over time as technology improves.  
4 That would give the staff the flexibility to work with  
5 the utilities and make certain that what we're  
6 providing you is what you need, depending upon what the  
7 technology is at the time. And as changes are made to  
8 technology, we can adapt as you prefer in those  
9 reports.

10 MR. MOSES: Okay. And what he was just  
11 talking about is in the .0346 rule, which is the next  
12 rule. Does anyone have comments on that? We were  
13 going to suggest doing away with that DBased format  
14 anyway, because we don't use it, so I'm glad you did  
15 that.

16 Okay. The next rule up would be 25-6.060.

17 MR. BEASLEY: We had some minor suggested  
18 changes to this rule, that it be changed in the title  
19 to a refereed dispute. We included some language to  
20 ensure that the testing, if it's done more frequently  
21 than 12 months, that it would be done by an independent  
22 meter test facility at the customer's expense. Because  
23 I think the rule does contemplate that they have an  
24 opportunity to have a refereed dispute no more than  
25 once a year without their expense, and with the

1 Commission witnessing the testing, but we just wanted  
2 to kind of mirror what we did, or what the Commission  
3 currently has in 25-6.059 where if the company is asked  
4 to test the meter more frequently than once a year,  
5 that the customer would have the option of doing that  
6 through a third party independent testing facility.  
7 This makes the rules comport with each other and  
8 discourages more frequently than once a year requests  
9 for meter tests.

10 MR. MOSES: Okay. Bill, did you have a  
11 question on the cost on that?

12 MR. McNULTY: Yes, I guess I did have one  
13 question about that, and that's that if we look at  
14 25-.059, you see that the cost of the meter test is  
15 something that if the customer is found to be within  
16 certain limits it's refundable, and I didn't see  
17 similar sort of language along those lines for the  
18 proposed language that TECO has offered.

19 That is one area, and then I guess another  
20 area is that if a customer requests a meter test of the  
21 company, and isn't satisfied with the result, and they  
22 come back and they say, well, now I want a meter  
23 refereed test, and request one of the Commission, then  
24 the onus is on them to pay for that meter test if they  
25 do so within that 12-month period following what they

1 would consider to be an unsatisfactory test by the  
2 company. So it seems to somehow in some ways shift the  
3 cost responsibility to them. It may be considered a  
4 disincentive to engage in a refereed meter test by the  
5 Commission. And I may not be seeing this exactly right,  
6 so I'm sort of opening the door for you to hopefully  
7 help explain this to me a little bit.

8 MR. BEASLEY: I think Rule 25-6.059 allows  
9 one, quote, free test by, quote, the customer per year,  
10 and it is a \$100 deposit, possibly refundable,  
11 depending upon the outcome of the test. Independent  
12 tests would be at the customer's option and the  
13 customer paying for that under that rule. And under  
14 25-6.060, the customer would still be able to request a  
15 Commission refereed test once a year. And it's only in  
16 the event they want it more often than once a year that  
17 the obligation to pay for the independent meter testing  
18 facility would be engaged.

19 MR. McNULTY: Okay. If they had made that  
20 request for a refereed meter test within 12 months of  
21 having already having had the test done, does that put  
22 them in the position of having to then pay for that  
23 refereed test?

24 MR. ASHBURN: The intent was they would  
25 get -- let's talk outside the language. They would get

1 a free one under the .059 rule, right, and then if they  
2 asked for more testing under that rule, they pay. They  
3 would then -- if they are not happy with the .059 rule,  
4 then they'd get a chance at a refereed test. Again,  
5 free. But if they asked for another refereed test,  
6 then they would pay.

7 MR. McNULTY: Okay. So they would get the  
8 first refereed test under the referee rule free.

9 MR. ASHBURN: Right.

10 MR. McNULTY: The second one within the  
11 12-month period is one that would then cause them to  
12 have to pay for that.

13 MR. ASHBURN: Right. That's right.

14 MR. McNULTY: But then there is no outcome  
15 of, let's say, for instance, a deposit. If you guys  
16 decided not to put the deposit language in there, that  
17 is refundable if they are found to be -- the meter is  
18 not running fast or that sort of thing.

19 MR. ASHBURN: Right.

20 MR. McNULTY: Did you consider that language  
21 as a way to --

22 MR. ASHBURN: We didn't consider that because  
23 we thought the second test with the Commission would  
24 be, you know, if they are asking for a second time  
25 after the test has occurred, the Commission has

1        refereed it, you know, it seems to us that's going to  
2        be pretty clear.  If they keep asking for it after  
3        that, we think they are getting excessive.  And so  
4        that's why we thought there wasn't a need to do that.  
5        But it's not -- you know, if you feel that's necessary,  
6        we can go ahead and do that, we just didn't think it  
7        was necessary.

8                MR. McNULTY:  Okay.  I guess where I kind of  
9        got lost in the language is where it says the test will  
10       be made without charge provided the meter has not been  
11       tested under the supervision of the Commission  
12       representative within 12-month previous to such  
13       request.  So basically it's the assumption that because  
14       there's a Commission representative present that it is  
15       a refereed test, that's the definition of a refereed  
16       test.

17               MR. ASHBURN:  That's correct.

18               MR. McNULTY:  And then that refereed test,  
19        that first refereed test, it is one that is done --  
20        it's not a shop test, or it is a de facto shop test  
21        rather than a --

22               MR. ASHBURN:  That's what we would expect is  
23        that it would be shop test and then witnessed by a  
24        referee from the Commission.

25               MR. McNULTY:  Okay.  Well, that certainly

1 helps me understand the draft language a lot better.  
2 And, you know, then the only other question that is  
3 still clanking around in my mind is maybe this would be  
4 an area that would be good for comment would be the  
5 appropriateness of whether or not that should be  
6 something that is a deposit that would be refundable  
7 under certain conditions and not under other  
8 conditions.

9 MR. MOSES: Any other comments? Okay. Let's  
10 move on to 25-7.059, use of meters. Does anyone have  
11 any comment on that rule? Good. Hearing none, that  
12 one's sold.

13 (Laughter.)

14 MR. MOSES: 25-7.060, location of meters and  
15 associated appurtenances. Any comments? Okay.

16 25-7.061, meter testing equipment.

17 25-7.062. 25-7.064. Y'all are too quiet.

18 25-7.065. 25-7.066. 25-7.070. 25-7.071. 25-7.084.  
19 25-12.005. 25-12.008. 25-12.052, and 25-12.082.

20 And I did not see welder qualifications on  
21 this list, but 25-12.027, welder qualifications, is  
22 going to be included in this rulemaking. Do you have a  
23 copy of the type-and-strike on that? Any issues with  
24 that?

25 The way the rule was written prior, it was

1 kind of run together and it wasn't real clear, so we  
2 tried to make it a little bit clearer. No comments on  
3 that? Are there any rules I have missed that anybody is  
4 aware of? Okay.

5 MS. COWDERY: That being the case, we  
6 anticipate that we will have the transcript ready next  
7 week, I think, on-line. In our schedule we have  
8 February 2nd as the due date of the transcript, but we  
9 anticipate early or mid next week we should have the  
10 transcript ready. But we are going to stick with the  
11 February 10th date, that we'd like to have any  
12 post-hearing written comments by February 10th.

13 Also as part of this rulemaking, we will be  
14 preparing a statement of estimated regulatory costs  
15 consistent with Sections 120.54(3)(b) and 120.541(2), so  
16 staff would appreciate any input that you may have if  
17 you believe that these rules are likely to have an  
18 adverse impact on any of the matters listed in  
19 Section 120.541(2).

20 Are there any questions or comments? Okay.  
21 Thank you for your participation and the staff workshop  
22 is adjourned.

23 MR. BEASLEY: Thank you.

24 MR. MOSES: Thank you.

25 (The workshop concluded at 9:57 a.m.)

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STATE OF FLORIDA )

: CERTIFICATE OF REPORTER

COUNTY OF LEON )

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 23rd day of January, 2012.



\_\_\_\_\_  
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