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DIVISION OF REGULATORY ANALYSIS
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Public Service Commission

February 24, 2012

To: Jurisdictional Water/Wastewater Utilities

Re: Industry survey for legislative review of agency rules in effect on or before November 16, 2010
Docket No. 110303-OT

To whom this may concern:

Please see attached staff's survey questions. Your timely response to these survey questions regarding Rule 25-22.032, Florida Administrative Code (F.A.C.) will be used to complete the Commission's Compliance Economic Review required by Sections 120.745 and 120.541, Florida Statutes. All responses should be filed in Docket No. 110303-OT by 5:00 p.m., Wednesday, March 14, 2012, and addressed to:

Judy Harlow
c/o Ann Cole
Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

If you have any questions, please contact Jessica Miller at (850) 413-6546 or jemiller@psc.state.fl.us or Laura King at (850) 413-6588 or lking@psc.state.fl.us. Thank you for your assistance.

Sincerely,

/s/ Judy Harlow
Judy Harlow
Senior Analyst
Division of Regulatory Analysis

DOCUMENT NUMBER DATE

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FPSC-COMMISSION CLERK

Rule 25-22.032, F.A.C. - Survey Questions

The following survey questions apply to **Rule 25-22.032, F.A.C, Consumer Complaints**. For responding to these questions, please refer to Subsection 120.541(2), F.S., and Subparagraph 120.745(1)(b)2, F.S. "Transactional costs" are defined in Subparagraph 120.541(2)(d), F.S., as:

...direct costs that are readily ascertainable based upon standard business practices, including filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.

The Company's response data to these survey questions should be provided for the entire rule, unless the response data is available by rule section, in which case we request the response data be provided by rule section. Please present data in annualized format, if possible, and all cost or benefit dollar estimates should be stated in nominal terms.

1. What are the Company's estimated transactional costs resulting from the Company's compliance with Rule 25-22.032, F.A.C., for the five year period beginning July 1, 2011?
 - a. For the five year period beginning July 1, 2011, which requirements of Rule 25-22.032, F.A.C., if any, would be performed by the Company assuming the rule were not in effect? Please explain.
 - b. For each of the requirements identified in 1a., what are the estimated transactional costs associated with such requirements for the five year period beginning July 1, 2011?
 - c. What are your actual transactional costs resulting from your Company's compliance with Rule 25-22.032, F.A.C., for the period July 1, 2011 to December 31, 2011?
2. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on small businesses (as defined by Section 288.703, F.S.) located in the Company's service territory, resulting from the implementation of 25-22.032, F.A.C., for the five year period beginning July 1, 2011?
3. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on small counties and small cities (as defined in Section 120.52, F.S.) located in the Company's service territory, resulting from the implementation of 25-22.032, F.A.C., for the five year period beginning July 1, 2011?
4. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on entities located in the Company's service territory other than those specifically identified in Questions 2 and 3, resulting from the implementation of 25-22.032, F.A.C., for the five year period beginning July 1, 2011?

5. What does the Company believe is the expected impact of Rule 25-22.032, F.A.C., on economic growth, private sector job creation or employment, and private sector investment for the five year period beginning July 1, 2011 in the Company's service territory?
6. What does the Company believe is the expected impact of Rule 25-22.032, F.A.C., on business competitiveness, including the ability of persons doing business in the Company's service territory to compete with persons doing business in states other than Florida or other domestic markets, productivity, and innovation, for the five year period beginning July 1, 2011?
7. What does the Company believe are the benefits of Rule 25-22.032, F.A.C.?
8. Assuming Rule 25-22.032, F.A.C., is unchanged over the next five years, do you expect your Company's costs to comply with the rule going forward, to increase, decrease, or remain the same. Please explain your response.
9. Does your Company currently have procedures/personnel in place to address complaints received directly from your consumers?
10. If Rule 25-22.032, F.A.C., were repealed would your Company continue to accept and address consumer complaints? Please explain your response.
11. Do you believe the costs, if any, incurred by your Company to comply with the records retention, reporting, and auditing requirements of Rule 25-22.032(10), F.A.C., for the five year period beginning July 1, 2011, if any, have an adverse impact on your Company? If so, please provide any and all data which supports your response.
12. Of the transactional costs estimated to be associated with compliance with 25-22.032, F.A.C., what percentage is spent on the following items:
 - a. Staffing
 - b. Document storage and retention
 - c. Postage and shipping
 - d. Communications (dedicated phone lines, emails or faxes)
 - e. Other
13. How many staff members at your Company are currently responsible for handling consumer complaints associated with 25-22.032, F.A.C.?
 - a. Are they full time employees?
 - b. Do these employees have responsibilities apart from handling complaints?
14. Section 3 of Rule 25-22.032, F.A.C., states that a customer's service shall not be discontinued during the complaint resolution process. Have there been instances within 2010 through 2011, when your Company was uncompensated for service provided as a result of a billing dispute?
 - a. In the majority of these cases, is the Company able to recoup these costs after the complaint is resolved?

15. Does your Company subscribe to the Florida Public Service Commission's telephone "transfer-connect" or email transfer system?
 - a. What are the annual costs associated with subscription to these systems, including costs due to additional requirements for staffing, operating hours and document retention?
16. Approximately what percentage of complaints are resolved prior to reaching the Informal Conference stage described in section 8 of Rule 25-22.032, F.A.C.?
 - a. How many times has your Company had a consumer complaint that has escalated all the way to the informal conference stage in the previous two years?
 - b. How many times within 2010 through 2011, has your Company had a complaint process that was escalated beyond the informal conference stage?
17. Approximately what percentage of complaints from your customers filed with the Florida Public Service Commission are successfully resolved within 30 days?
18. How has Rule 25-22.032, F.A.C., affected the way your Company processes complaints?
 - a. Has the rule had a positive, negative, or neutral impact on your Company?
 - b. How has the rule affected the Company's cost of handling complaints?

25-22.032 Customer Complaints.

(1) Intent; Application and Scope. It is the Commission's intent that disputes between regulated companies and their customers be resolved as quickly, effectively, and inexpensively as possible. This rule establishes informal customer complaint procedures that are designed to address disputes, subject to the Commission's jurisdiction, that occur between regulated companies and individual customers. It provides for expedited processes for customer complaints that can be resolved quickly by the customer and the company. It also provides a process for informal Commission staff resolution of complaints that cannot be resolved by the company and the customer.

(2) Processing of Complaints.

(a) Any customer of a Commission regulated company may file a complaint with the Division of Service, Safety and Consumer Assistance whenever the customer has an unresolved dispute with the company regarding electric, gas, telephone, water, or wastewater service that is subject to the Commission's jurisdiction. The complaint may be communicated orally or in writing. The complaint shall include the name of the company against which the complaint is made, the name of the customer of record, and the customer's service address. Upon receipt of a complaint by telephone, Commission staff will determine if the customer has contacted the company.

(b) In the case of complaints made by telephone, if the customer agrees, Commission staff will put the customer in contact with the company for resolution of the complaint using the telephone transfer-connect system described in subsection (4), or by other appropriate means if the company does not subscribe to the telephone transfer-connect system. If the customer does not agree to be put in contact with the company, then, in the case of companies subscribing to the telephone transfer-connect system, staff will submit the complaint to the company for resolution in accordance with the provisions set forth in subsection (5).

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

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

(4) Telephone Transfer-connect and E-mail Transfer Systems.

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

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

(5) Complaints resolved within three (3) days by companies participating in the Telephone Transfer-Connect System or the E-mail Transfer System. Companies that subscribe to the telephone transfer-connect or E-mail transfer system may resolve a customer complaint within three (3) days in the following manner:

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

(b) If the customer does not object to the company's resolution to the complaint, the complaint will not be reported in the total number of complaints shown for that company in the Commission's Consumer Complaint Activity Report. However, the Commission will retain the information for use in enforcement proceedings, or for any other purpose necessary to perform its regulatory obligations.

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

(d) For purposes of this subsection a complaint will be considered “resolved” if the company report indicates that the problem has been corrected or the company report indicates that the company and the customer have agreed to a plan to correct the problem.

(6) General Commission Staff Complaint Investigation. If the customer is not placed in direct contact with the company by means of the telephone transfer-connect or E-mail transfer system for resolution of his complaint, Commission staff will investigate the complaint and attempt to resolve the dispute in the following manner:

(a) Commission staff will acknowledge receipt of the complaint to the customer, notify the company of the complaint and request a written response from the company. Notification to the company by Commission staff will be to the primary Commission liaison for each certificate unless the company has provided to the Director of the Division of Service, Safety and Consumer Assistance a name, address, telephone and facsimile numbers and E-mail address for a separate point of contact for complaint handling for each certificate. It is preferable for a company to have a single point of contact for complaint handling but a company may identify up to a maximum of three points of contact for complaint handling per certificate. However, if Commission staff directs a complaint to any one of the identified multiple complaint handling contacts, the company shall process the complaint and not return the complaint to Commission staff for redirecting the complaint to other company points of contact.

(b) If the customer specifically makes a request to the Commission that he or she not be contacted by the company, Commission staff will request that the company not contact the customer directly. Otherwise, the company shall make direct contact with the customer verbally or in writing and provide to the customer its response to the complaint within 15 working days after the Commission staff sends the complaint to the company. Responses sent by mail must be postmarked within the 15 working day time period. The company shall also provide to the Commission staff, within 15 working days after the Commission staff sends the complaint to the company, a written response to the customer’s complaint. However, in the case of those complaints where the company has proposed, under the provisions of subsection (5) of this rule (complaints resolved in 3 days), a resolution with which the customer is not satisfied, the company shall respond within twelve (12) working days of the case being resent to the company.

(c) The company’s response to the Commission staff shall explain the likely cause of the problem, all actions taken by the company to resolve the customer’s complaint, and the company’s resolution or proposed resolution of the complaint and shall answer any specific questions raised by Commission staff. The company response shall also include letters or E-mails sent to the customer that contain the company’s proposed resolution of the complaint or statement of position in addressing or resolving the complaint. Upon Commission staff request, other documentation related to the complaint shall be provided to Commission staff. If the company’s proposed resolution has not yet been implemented at the time of the response to the Commission staff and customer, the company shall fully set forth in its response the steps that will be taken by the company to resolve the complaint and the dates by which each step will be taken by the company. The company shall promptly notify the customer if it is subsequently unable to take its proposed action as scheduled and shall provide to the customer and, upon request, to Commission staff, a new resolution schedule for the complaint.

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

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

(7) Process Review Team.

(a) If the customer or the company is not in agreement with Commission staff’s proposed resolution, the Division of Service, Safety and Consumer Assistance will refer the complaint to a Process Review Team consisting of staff from the Office of the General Counsel, the Division of Regulatory Compliance and Consumer Assistance, and the appropriate technical division. This Process Review Team will review the complaint file to determine further handling of the complaint.

(b) If the Process Review Team finds that the subject matter of the complaint may be within the Commission’s jurisdiction, that the relief sought can possibly be granted by the Commission, that the basis of the complaint is not an objection to current statutes, rules, company

tariffs, or orders of the Commission, and that a violation of an applicable statute, rule, company tariff or order of the Commission may have occurred, the Division of Service, Safety and Consumer Assistance shall schedule an informal conference. The fact that an informal conference is scheduled shall not preclude any participant or Commission staff from later taking a position that the complaint does not fall into one or more of the above categories.

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

1. The case involves issues or concerns that fall outside the jurisdiction of the Commission,
2. The relief sought cannot be provided by the Commission,
3. The basis of the complaint is an objection to current statutes, rules, company tariffs, or orders of the Commission, or
4. It does not appear that a violation of applicable statutes, rules, company tariffs, or orders of the Commission occurred.

(d) Once the closure letter has been sent, the case will be closed.

(8) Informal Conference.

(a) If the Process Review Team identifies a complaint for an informal conference, Division of Service, Safety and Consumer Assistance staff will notify the company and provide to the customer a Dispute Resolution Form PSC/SSC 010 (01/04), incorporated herein by reference, via certified mail. The customer shall return the completed Dispute Resolution Form PSC/SSC 010 to the Division of Service, Safety and Consumer Assistance postmarked within 15 working days after the date of its being sent to the customer. If the completed Dispute Resolution Form PSC/SSC 010 is not received from the customer with a postmark within the required 15 working days, the customer's complaint will be closed at that point. If the Dispute Resolution Form is completed and returned by the customer, Commission staff will provide a copy to the company.

(b) A customer's completed Dispute Resolution Form PSC/SSC 010 shall consist of:

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

2. A statement of the issues to be resolved.

3. Any dollar amount in dispute.

4. A statement of the relief requested.

(c) Any participant may file additional information, documentation, or arguments; however, such additional information, documentation or arguments shall be limited to the issues from the customer's original complaint which are identified in the customer's Dispute Resolution Form PSC/SSC 010.

(d) When an informal conference is scheduled, the presiding staff member appointed to conduct the conference shall not have participated in the proposed resolution of the complaint. The appointed staff shall be comprised of a representative of the Division of Service, Safety and Consumer Assistance staff, an attorney from the Office of the General Counsel, and a staff member from appropriate technical staff. The representative from the Division of Service, Safety and Consumer Assistance will preside at the informal conference.

(e) After receiving the Dispute Resolution Form from the customer, Commission staff will send a written notice to the participants setting forth the unresolved issues, the procedures to be followed at the informal conference, and the dates by which written materials are to be filed. A company may at this time respond to information contained on the customer's Dispute Resolution Form. Each participant may be represented at the informal conference by an attorney or other representative or may represent himself. Each participant shall be responsible for his own expenses in the handling of the complaint. The conference may be held no sooner than ten days following a notice, unless all participants agree to an earlier date.

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

(g) If a settlement is not reached within 20 working days following the informal conference and if the complaint is not withdrawn, staff shall submit a recommendation to the Commission for consideration at the next available Commission Conference. Copies of the recommendation shall be sent to the participants by the Office of the General Counsel.

(h) The Commission will address the matter by issuing a notice of proposed agency action or by setting the matter for hearing pursuant to Section 120.57, Florida Statutes. If the Commission sets the matter for hearing, the participants may be represented by an attorney or a qualified representative as prescribed in Rule 28-106.106, F.A.C., or may represent themselves. Each participant shall be responsible for his

own expenses in the handling of the complaint.

(9) Settlement. At any time the participants may agree to settle their dispute. If a settlement is reached, the participants or their representatives shall file with the Division of Service, Safety and Consumer Assistance a written statement to that effect. The statement shall indicate that the settlement is binding on all participants, and that the participants waive any right to further review or action by the Commission. If the complaint has been docketed, the Division of Service, Safety and Consumer Assistance shall submit the settlement to the Commission for approval. If the complaint has not been docketed, the Division of Service, Safety and Consumer Assistance will acknowledge the statement of settlement by letter to the participants.

(10) Record Retention, Reports, and Auditing.

(a) All companies shall retain documentation relating to each Commission complaint for two years after the date the complaint was closed by the Commission.

(b) All companies that participate in the telephone transfer-connect, E-mail transfer or three day complaint resolution options shall file with the Commission's Division of Service, Safety and Consumer Assistance, by the fifth working day of each month a report in tabular form that summarizes the following information for the preceding calendar month:

1. The number of calls handled via telephone transfer-connect, including the date received, customer's name, a brief description of the complaint, and whether the complaint was addressed;

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

3. The number of complaints handled under the three day complaint resolution procedure, including the date received, the customer's name, the Commission assigned filing number, a brief description of the complaint, and whether the complaint was resolved.

(c) Companies shall provide access to the Commission to all such records for audit purposes.

(11) Extensions of Time.

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

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

Specific Authority 350.127(2), 364.0252, 364.19, 366.05, 367.121 FS. Law Implemented 120.54, 120.569, 120.57, 120.573, 364.01, 364.0252, 364.03(1), 364.15, 364.183, 364.185, 364.19, 364.337(5), 366.03, 366.04, 366.05, 367.011, 367.111, 367.121 FS. History—New 1-3-89, Amended 10-28-93, 6-22-00, 1-29-04.