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# Public Service Commission

November 9, 2015

Rules Ombudsman in  
The Executive Office of the Governor  
GovernorRick.Scott@eog.myflorida.com

SENT VIA E-MAIL

RE: Docket No. 150187-PU; Rules 25-9.001, 25-9.002, 25-9.050, 25-9.051, 25-9.052 and 25-9.053, F.A.C.

Dear Rules Ombudsman,

The Commission has determined that the above rules will affect small businesses. Accordingly, pursuant to Section 120.54(3)(b), Florida Statutes, enclosed is a copy of the Florida Administrative Register (FAR) notice of the proposed rules, which was published in the November 9, 2015 edition of the FAR. Also enclosed is a copy of the statement of estimated regulatory costs (SERC). The SERC concluded that the proposed rule amendments will not have an adverse affect on small business.

If there are any questions with respect to these rules, please contact me at (850) 413-6214 or [phpage@psc.state.fl.us](mailto:phpage@psc.state.fl.us).

Sincerely,

A handwritten signature in cursive script that reads "Pamela H. Page".

Pamela H. Page  
Senior Attorney

Enclosures

cc: Office of the Commission Clerk

## Notice of Proposed Rule

### PUBLIC SERVICE COMMISSION

#### RULE NOS.:RULE TITLES:

25-9.001 Application and Scope  
25-9.002 Definitions  
25-9.050 Application and Scope  
25-9.051 Definitions  
25-9.052 General Submittal Instructions  
25-9.053 Filing and Evaluation of Submittals

PURPOSE AND EFFECT: To clarify and simplify the rules and delete unnecessary and redundant rule provisions, so that the rules are up to date and usable.

Docket No. 150187-PU

SUMMARY: The rules prescribe the procedures to be followed by municipal electric utilities and rural electric cooperatives in submitting documentation of rate schedules and contracts and agreements.

Rule 25-9.001, F.A.C. - Amendments clarify which rules apply to each type of utility by rule number. Remainder of the rule is deleted as obsolete and unnecessary;

Rule 25-9.002, F.A.C. - Amendments state that definitions are applicable to Rules 25-9.002 through 25-9.045, F.A.C., rather than a reference to these regulations;

Rule 25-9.050, F.A.C. - Amendments repeal this rule as it is obsolete due to amendments to Rule 25-9.001, F.A.C., identifying rules applicable to each type of utility;

Rule 25-9.05, F.A.C.1 - Amendments define the documentation to be submitted with the proposed change in rate structure, including rate schedules, and contracts and agreements;

Rule 25-9.052, F.A.C. - Amendments set forth instructions for the filing of documentation in support of a proposed rate structure;

Rule 25-9.053, F.A.C. - Amendments identify evaluation criteria for a proposed change in rate structure and describe role of staff and the Commission in the evaluation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency.

The SERC examined the factors required by Section 120.541(2), F.S., and concluded that the rule amendments will not have an adverse impact on economic growth, business competitiveness, or small business and that affected entities potentially may benefit from the recommended rule changes.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 350.127(2), 366.05(1), 367.121, 367.091, 367.101, F.S

LAW IMPLEMENTED: 366.04(2)(b), 366.05(1), 366.06, 367.021, 367.091, 367.101, 367.081, F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela H. Page, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6214, [phpage@psc.state.fl.us](mailto:phpage@psc.state.fl.us)

THE FULL TEXT OF THE PROPOSED RULE IS:

25-9.001 Application and Scope.

(1) The provisions of Rules 25-9.002 through 25-9.045, F.A.C., Parts I, II and III of these rules shall only apply to public utilities as defined in Rule subsection 25-9.002(2), F.A.C., and the provisions of Rules 25-9.051 through

25-9.071, F.A.C., Parts IV and V of these rules shall only apply to municipalities and cooperatives as defined in Rule subsection 25-9.051(2), F.A.C. The provisions of this chapter shall not apply to Interexchange Companies, Pay Telephone Service Companies, Shared Tenant Service Companies, Operator Service Provider Companies, Alternative Access Vendor Service Providers, Competitive Local Exchange Companies, or Local Exchange Companies.

(2) ~~The following shall prescribe the procedures to be used by public utilities in filing:~~

(a) ~~Rules and Regulations.~~

(b) ~~Rate Schedules.~~

(c) ~~Standard Forms and Riders.~~

(d) ~~Contracts and Agreements.~~

(e) ~~Tariffs.~~

(3) ~~No rules and regulations, or schedules of rates and charges, or modifications or revisions of the same, shall be effective until filed with and approved by the Commission as provided by law.~~

(4) ~~Upon acceptable showing by any utility, the Commission may waive or modify, as to that utility, the provisions of any rule herein contained, except when such provisions are fixed by statute.~~

(5) ~~No deviation from these rules shall be permitted unless authorized in writing by the Commission.~~

*Rulemaking Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 366.04(2)(b), 366.05(1), 367.091, 367.101 FS. History—New 1-8-75, Repromulgated 10-22-75, Amended 8-9-79, Formerly 25-9.01, Amended 2-23-86, 1-8-95, 1-25-09,*

#### 25-9.002 Definitions.

For the purposes of Rules 25-9.002 through 25-9.045, F.A.C., these regulations the following definitions shall apply:

(1) The word “Commission” refers to the Florida Public Service Commission.

(2) ~~Except where a different meaning clearly appears from the context, T~~the word or words “utility” or “public utility” as used in these rules shall mean and include all electric and gas utilities, water systems, and wastewater systems, which are, or may hereafter be, subject to the rate jurisdiction of this Commission.

(3) through (6), No change.

(7) “Contracts and agreements” shall refer to special contracts entered into by the utility for the sale of commodities ~~commodity~~ or services in a manner or subject to provisions not specifically covered by its filed standard rate schedules.

(8) No change.

*Rulemaking Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 366.05(1), 367.081, 367.091, 367.101, 367.021 FS. History—New 1-8-75, Repromulgated 10-22-75, Formerly 25-9.02, Amended 1-25-09,*

#### 25-9.050 Application and Scope.

*Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b) FS. History—New 8-9-79, Formerly 25-9.50, Repealed*

#### 25-9.051 Definitions.

For the purposes of Rules 25-9.051 through 25-9.071, F.A.C., these rules the following definitions shall apply:

(1) “Commission” refers to the Florida Public Service Commission.

(2) “Utility” ~~refers~~ applies to the municipal electric utilities and rural electric cooperatives subject to the jurisdiction of this Commission pursuant to Section 366.04(2), F.S. ~~except where a different meaning clearly appears from the context.~~

(3) through (5), No change.

(6) “Documentation” ~~refers~~ applies to the assembled volume containing the materials required by Rules 25-9.054 through 25-9.071, F.A.C. rate schedules, contracts and agreements and other materials required by these rules.

(7) “Rate structure” refers to the classification system used in justifying different rates and, ~~more specifically,~~ to the ~~rate relationship~~ between various customer classes, ~~as well as the rate relationship between members of a customer class.~~

(8) No change.

*Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b) FS. History—New 8-9-79, Amended 5-3-83, Formerly 25-9.51, Amended \_\_\_\_\_.*

#### 25-9.052 General Filing Submittal Instructions.

(1) Each utility shall ~~submit to the Commission~~ file with the Commission Clerk documentation as defined in Rule 25-9.051(6), F.A.C. ~~documentation of all territory and customers served by it.~~

(2) All supplements, revisions, modifications or changes to the documentation shall be filed with the Commission Clerk ~~submitted to the Commission~~ in quadruplicate and in the form prescribed herein at least 30 days prior to final adoption by the utility. All materials filed with the Commission Clerk ~~submitted to the Commission~~ pursuant to subsection (1) of this rule will be reviewed for compliance with Rules 25-9.051 through 25-9.071, F.A.C., and retained in the Commission's files. ~~After review, a letter indicating the Commission receipt of or comments on the utility's proposed rate structure will be transmitted to the utility. The comment letter may contain a request for data or explanation of the basis for any change in the utility's rate structure.~~

(3) All documentation filed with the Commission Clerk shall be accompanied by a list of the materials being filed. ~~After reviewing Commission comments and adopting a final rate structure, the utility shall submit the adopted rate structure to the Commission, along with any response to the Commission's comment letter. The Commission will acknowledge these filings.~~

(4) When a utility's filing reflects a proposed change in rate structure, the utility shall provide documentation to support the change in rate structure. ~~In the event the Commission determines that the rate structure of a utility may not be fair, just and reasonable, the Commission may initiate appropriate proceedings to prescribe a rate structure that is fair, just and reasonable. In so doing the Commission may, among other things, consider the cost of providing service to each customer class, as well as the rate history, value of service and experience of the utility, the consumption and load characteristics of the various classes of customers and the public acceptance of rate structures. The following principles may also be considered: simplicity, freedom from controversy, rate stability, fairness in apportioning costs, avoidance of undue discrimination and encouragement of efficiency.~~

(5) ~~All documented materials filed with the Commission shall be accompanied by a letter listing the sheets being transmitted. The filing shall be acknowledged if the letter is sent in duplicate with a request for acknowledgement.~~

*Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b) FS. History—New 8-9-79, Amended 5-3-83, Formerly 25-9.52, Amended \_\_\_\_\_.*

#### 25-9.053 Filing and Evaluation of Filings Submittals.

(1) A change to a utility's rate structure must meet one of the following criteria: (a) is cost based; (b) has historical precedent; (c) embodies pricing concepts previously approved by the Commission; or (d) is not unduly discriminatory. ~~Each letter transmitting a utility's proposed documentation in which any change in rate structure is proposed shall be accompanied by supporting information in sufficient detail as to allow the Commission to determine the derivation of all rate structure modifications. The supporting information shall consist of either a utility-specific cost study or an analysis of utility-specific cost and operating data prepared using a methodology previously approved by the Commission for any comparable utility. All additional relevant information deemed necessary by the Commission shall be submitted in addition to the above request.~~

(2) After review of the utility's proposed change in rate structure, staff will send written notification to the utility indicating: (a) administrative approval of the documentation or (b) how the proposed rate structure is inconsistent with the criteria listed in subsection (1) of this rule. Upon receipt of staff's notification of inconsistency, the utility shall file an alternative proposed rate structure addressing staff's concerns or file a statement that the utility disagrees with the staff determination of inconsistency and requesting the Commission to consider the proposed rate structure as filed. ~~If the utility does not submit such supporting information the Commission shall evaluate the proposed change in rate structure on the basis of cost and operating data from one or more comparably situated public electric utilities which the Commission determines to be most similar to the filing utility. Data from the comparable utilities shall be considered in conjunction with all submitted information which is specific to the filing utility.~~

(3) If the Commission finds the proposed rate structure inconsistent with subsection (1), the Commission shall

direct the utility to file a rate structure that is consistent with the criteria in subsection (1) of this rule.

*Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b), FS. History—New 8-9-79, Formerly 25-9.53, Amended 1-17-93,\_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Elisabeth Draper

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 41, Number 71, April 13, 2015

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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**DATE:** August 14, 2015  
**TO:** Pamela H. Page, Senior Attorney, Office of the General Counsel  
**FROM:** Clyde D. Rome, Public Utility Analyst II, Division of Economics *CDR*  
**RE:** Statement of Estimated Regulatory Costs (SERC) for Recommended Revisions to Chapter 25-9, Florida Administrative Code (F.A.C.), Construction and Filing of Tariffs by Public Utilities

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The purpose of this rulemaking initiative is to update, clarify, and streamline certain Commission rules pertaining to the filing of documentation by municipal and cooperative electric utilities. Specifically, staff is recommending the repeal of Rule 25-9.050 (Application and Scope) F.A.C., and the amendment of Rules 25-9.001 (Application and Scope), 25-9.002 (Definitions), 25-9.051 (Definitions), 25-9.052 (General Submittal Instructions), and 25-9.053 (Filing and Evaluation of Submittals), F.A.C. As noted in the attached SERC, 34 municipal electric utilities and 16 electric cooperatives would be affected by the recommended revisions.

It is anticipated that affected entities may benefit from the recommended rule changes. The recommended amendments to Rule 25-9.001, F.A.C., would clarify that Rules 25-9.002 through 25-9.045, F.A.C., apply to investor-owned utilities and that Rules 25-9.051 through 25-9.071, F.A.C., apply to municipal and cooperative electric utilities. The changes to Rule 25-9.001, F.A.C., would make Rule 25-9.050, F.A.C., redundant and appropriate for repeal. The recommended amendments to Rules 25-9.002 and 25-9.051, F.A.C., would clarify the definitions of terms used in Rules 25-9.002 through 25-9.045, F.A.C., and Rules 25-9.051 through 25-9.071, F.A.C., respectively. The recommended revisions to Rule 25-9.052, F.A.C., would clarify and streamline the presentation of the procedures to be followed by municipal and cooperative electric utilities in filing documentation with the Commission. The recommended revisions to Rule 25-9.053, F.A.C., would clarify and streamline the presentation of the Commission's process for evaluating filings pertaining to changes in municipal and cooperative electric utility rate structures.

A workshop to solicit input on the recommended rules was conducted by Commission staff on June 9, 2015. Several comments that either were received during the workshop or were filed subsequently were incorporated into the draft rules to provide additional clarification. No regulatory alternatives were submitted pursuant to Paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in Paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

cc: (Draper, Daniel, Shafer, Cibula, SERC file)



(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes

No

Economic Analysis: Affected entities potentially may benefit from the recommended rule changes. A summary of the recommended rule revisions is included in the attached memorandum to Counsel.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

34 municipal electric utilities and 16 electric cooperatives would be affected.

(2) A general description of the types of individuals likely to be affected by the rule.

Municipal electric utilities are governed by elected officials of local governments; electric cooperatives are governed by directors elected by the cooperative's members.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

None. To be done with the current workload and existing staff.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

None. The rule will only affect the Commission.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.



(3) Any anticipated effect on state or local revenues.

- None
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule. [120.541(2)(d), F.S.]

- None. The rule will only affect the Commission
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

The clarification and streamlining of the rule language potentially may benefit the affected entities when filing documentation with the Commission.

E. An analysis of the impact on small businesses, and small counties and small cities: [120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- No impact on small cities or small counties
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful.  
[120.541(2)(f), F.S.]

- None.

Additional Information:

A workshop to solicit input on the recommended rules was conducted by Commission staff on June 9, 2015. Several comments that either were received during the workshop or were filed subsequently were incorporated into the draft rules to provide additional clarification.

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

- No regulatory alternatives were submitted.
- A regulatory alternative was received from
  - Adopted in its entirety.
  - Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.