

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-

DATE: December 10, 2015
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Pamela H. Page, Senior Attorney, Office of the General Counsel *PHP*
RE: Docket No 150187-PU

RECEIVED-FPSC
2015 DEC 10 PM 1:58
COMMISSION
CLERK

Please file the attached rule certification packet for Rules 25-9.001, 25-9.002, 25-9.050, 25-9.051, 25-9.052 and 25-9.053, F.A.C., in the docket file listed above.

Thank you.

Attachment

COMMISSIONERS:
ART GRAHAM, CHAIRMAN
LISA POLAK EDGAR
RONALD A. BRISÉ
JULIE I. BROWN
JIMMY PATRONIS

STATE OF FLORIDA



GENERAL COUNSEL
CHARLIE BECK
(850) 413-6199

Public Service Commission

December 10, 2015

Mr. Ernest Reddick
Florida Department of State
Administrative Code and Register Section
Room 701, the Capitol
Tallahassee, FL 32399-0250

VIA HAND DELIVERY

Re: Rule Certification Packet for Rules 25-9.001, 25-9.002, 25-9.050, 25-9.051, 25-9.052 and 25-9.053, F.A.C.

Dear Mr. Reddick:

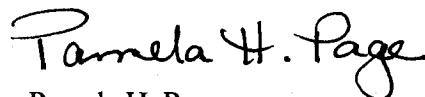
Enclosed for filing is a complete rule certification packet for Rules 25-9.001, 25-9.002, 25-9.050, 25-9.051, 25-9.052 and 25-9.053, consisting of:

- (1) One compact disc containing the coded text of the rules;
- (2) There are no materials incorporated by reference into these rules;
- (3) One original and two copies of the signed rule certification form;
- (4) One original and two copies of the coded text of the rules, including the legal citations and history notes;
- (5) One original and two copies of the summary of the rules;
- (6) One original and two copies of the detailed written statement of the facts and circumstances justifying the rules; and
- (7) One original and two copies of the summary of the hearings held on the rules.

2015 DEC 10 AM 11:33
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA
FILED

Please let me know if you have any questions. The contact name and information for this rule are Pamela H. Page, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6214, phpage@psc.state.fl.us.

Sincerely,

A handwritten signature in black ink that reads "Pamela H. Page". The signature is written in a cursive style with a large initial "P" and a decorative flourish at the end.

Pamela H. Page
Senior Attorney

Enclosures

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Nos.

25-9.001

25-9.002

25-9.050

25-9.051

25-9.052

25-9.053

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)

Carlotta S Stauffer
CARLOTTA S. STAUFFER

Commission Clerk _____

Title _____

Number of Pages Certified 6

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,~~ 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) The term "rules" and/or "regulations" refers to the general practices followed by the utility in carrying on its business with its customers and includes the rules, practices, classifications, exceptions and conditions observed by the utility in supplying service.
- (4) The term "rate" refers to the price or charge for utility service.
- (5) The term "rate schedule" refers to the rate or charge for the particular classification of service plus the several provisions necessary for billing, including all special terms and conditions under which service shall be furnished at such rate or charge.
- (6) The term "standard forms" means and includes all standard contract or agreement forms for execution between the utility and its customers.
- (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) The term "tariff" shall refer to the assembled volume containing the "rules," "regulations," "rate schedules," "standard forms," "contracts," and other material required by these regulations as filed with the Commission.

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.

(1) The following rules apply only to municipal electric utilities and rural electric cooperatives and prescribe the procedure to be followed by such utilities in submitting documentation of:

(a) Rate Schedules

(b) Contracts and Agreements

(2) Upon acceptable showing by the 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.

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

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) "Rate" refers to the price or charge for utility service.
- (4) "Rate schedules" refer to the rate for a particular classification of service and the provisions necessary for billing, including all special terms and conditions under which service shall be furnished at such rate or charge.
- (5) "Contracts and agreements" refer to the special contracts entered into by the utility for the sale of electricity to consumers in a manner or subject to provisions not specifically covered by its submitted rate schedules.
- (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) "Customer class" refers to any group of customers distinguishable from other customers by load, consumption or other characteristic.

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, _____.

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.

SUMMARY OF THE RULE

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 - 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 - 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 - 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 25-9.051 - 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 - Amendments set forth instructions for the filing of documentation in support of a proposed rate structure;

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

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

The amendments modify the procedures to be followed by municipal electric utilities and rural electric cooperatives in submitting documentation of rate schedules and contracts and agreements. The rules are intended to prescribe a uniform system and classification of accounts for municipal electric utilities and rural cooperatives. The rules have also been updated and clarified, and unnecessary and redundant rule provisions have been deleted.

SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.