

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

NOTICE OF DEVELOPMENT OF RULEMAKING

TO

ALL INTERESTED PERSONS

UNDOCKETED

IN RE: PROPOSED REPEAL OF RULES 25-22.017, RULEMAKING PROCEEDING –
ADOPTIONS, AND 25-22.039, INTERVENTION, FLORIDA ADMINISTRATIVE CODE,
AND
PROPOSED AMENDMENT OF RULES 25-22.060, MOTION FOR RECONSIDERATION,
AND 25-40.001, EXCEPTIONS TO THE UNIFORM RULES OF PROCEDURE,
FLORIDA ADMINISTRATIVE CODE

ISSUED: June 28, 2017

NOTICE is hereby given pursuant to Section 120.54, Florida Statutes (F.S.), that the Florida Public Service Commission (Commission) staff has initiated rulemaking to repeal Rule 25-22.017, Florida Administrative Code (F.A.C.), as obsolete and unnecessary to implementation of Section 120.54, F.S. Commission staff has initiated rulemaking to repeal Rule 25-22.039, F.A.C., in order for the uniform filing rule, Rule 28-106.205, F.A.C., to take its place. Rulemaking has been initiated to amend Rule 25-22.060, F.A.C., to delete paragraph (1)(e) as obsolete in referencing uniform rule of procedure chapter 28-103, Rulemaking, which has been repealed and because it is unnecessary to implementation of Section 120.54, F.S. Rule 25-40.001, F.A.C., would be amended to delete reference to chapters 28-103, Rulemaking, and 28-107, Licensing, F.A.C., because those chapters are repealed. In the event that Rule 25-22.039, F.A.C., is repealed, Rule 25-40.001, F.A.C., would be amended to delete Rule 25-22.039, F.A.C., from the list of Commission rules that are exceptions to the uniform rules of procedure.

The attached Notices of Development of Rulemaking appeared in the June 28, 2017 edition of the Florida Administrative Register. If requested in writing and not deemed unnecessary by the agency head, a rule development workshop will be scheduled and noticed in the next available Florida Administrative Register. Written requests for a rule development workshop must be submitted to Kathryn G.W. Cowdery, Florida Public Service Commission, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6216, kcowdery@psc.state.fl.us, by July 12, 2017. A copy of the draft rules is also attached.

NOTICE OF DEVELOPMENT OF RULEMAKING
UNDOCKETED
PAGE 2

By DIRECTION of the Florida Public Service Commission this 28th day of June, 2017.


CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF DEVELOPMENT OF RULEMAKING
UNDOCKETED
PAGE 3

Notice of Development of Rulemaking

PUBLIC SERVICE COMMISSION

RULE NOS.: RULE TITLES:

25-22.017 Rulemaking Proceeding - Adoption

25-22.039 Intervention

25-22.060 Motion for Reconsideration of Final Orders

PURPOSE AND EFFECT: Rule 25-22.017, F.A.C. would be repealed as obsolete and unnecessary to implementation of Section 120.54, F.S. Rule 25-22.039, F.A.C., Intervention, would be repealed and the Commission would follow Uniform Rule of Procedure Rule 28-106.205, F.A.C., Intervention. Rule 25-22.060, F.A.C. would be amended to delete paragraph (1)(e) as obsolete and unnecessary for implementation of Section 120.54, F.S.

Undocketed

SUBJECT AREA TO BE ADDRESSED: Rulemaking procedure; intervention into a pending proceeding; and motions for reconsideration of an order adopting, repealing, or amending a rule.

RULEMAKING AUTHORITY: 350.01(7), 350.127(2) FS.

LAW IMPLEMENTED: 120.525, 120.54(3), 120.569, 120.57 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kathryn G.W. Cowdery, Florida Public Service Commission, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6216, kcowdery@psc.state.fl.us.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

NOTICE OF DEVELOPMENT OF RULEMAKING
UNDOCKETED
PAGE 4

Notice of Development of Rulemaking

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-40.001 Exceptions to the Uniform Rules of Procedure

PURPOSE AND EFFECT: Rule 25-40.001, F.A.C. would be amended to remove chapters 28-103, F.A.C., Rulemaking, and 28-107, F.A.C., Licensing, F.A.C., from the list of Uniform Rules because those chapters are repealed. In the event that Rule 25-22.039, Intervention, F.A.C., is repealed, Rule 25-40.001, F.A.C. would be amended to remove Rule 25-22.039, F.A.C. from the list of Commission rules that are exceptions to the Uniform Rules of Procedure.

Undocketed

SUBJECT AREA TO BE ADDRESSED: Exceptions to the Uniform Rules of Procedure.

RULEMAKING AUTHORITY: 120.54(5)(a)3, FS.

LAW IMPLEMENTED: 120.54(5)(a)3, FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

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THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

1 **25-22.017 Rulemaking Proceeding - Adoption.**

2 ~~(1) At a public meeting, the Commission shall consider the record, the proposed rule,~~
3 ~~timely exceptions to the presiding officer's final recommended version, if permitted, and the~~
4 ~~recommendation of the presiding officer. The Commission may also question staff and other~~
5 ~~persons as part of its deliberations prior to adopting, rejecting or modifying the proposed rule.~~

6 ~~(2) Oral argument and petitions for reconsideration are not appropriate to the rulemaking~~
7 ~~process. However, any interested person may petition the Commission after a rule is adopted~~
8 ~~or amended, for initiation of rulemaking proceedings pursuant to Rule 28-103.006, F.A.C., to~~
9 ~~amend or otherwise modify the adopted rule or amendment.~~

10 *Rulemaking Authority 350.127(2) FS. Law Implemented 120.525, 120.54(3) FS. History—New*
11 *12-21-81, Amended 10-25-83, Formerly 25-22.17, Amended 5-3-99. Repealed_____.*

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

1 **25-22.039 Intervention.**
2 ~~Persons, other than the original parties to a pending proceeding, who have a substantial~~
3 ~~interest in the proceeding, and who desire to become parties may petition the presiding officer~~
4 ~~for leave to intervene. Petitions for leave to intervene must be filed at least five (5) days before~~
5 ~~the final hearing, must conform with Uniform subsection 28-106.201(2), F.A.C., and must~~
6 ~~include allegations sufficient to demonstrate that the intervenor is entitled to participate in the~~
7 ~~proceeding as a matter of constitutional or statutory right or pursuant to Commission rule, or~~
8 ~~that the substantial interests of the intervenor are subject to determination or will be affected~~
9 ~~through the proceeding. Intervenors take the case as they find it.~~

10 *Rulemaking Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57 FS.*

11 *History—Formerly 25-2.34, Amended 12-21-81, Formerly 25-22.39, Repealed_____*

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1 **25-22.060 Motion for Reconsideration of Final Orders.**

2 (1) Scope and General Provisions.

3 (a) Any party to a proceeding who is adversely affected by an order of the Commission
4 may file a motion for reconsideration of that order. The Commission will not entertain any
5 motion for reconsideration of any order that disposes of a motion for reconsideration.

6 (b) A party may file a response to a motion for reconsideration and may file a cross motion
7 for reconsideration. A party may file a response to a cross motion for reconsideration.

8 (c) A final order shall not be deemed rendered for the purpose of judicial review until the
9 Commission disposes of any motion and cross motion for reconsideration of that order, but
10 this provision does not serve automatically to stay the effectiveness of any such final order.
11 The time period for filing a motion for reconsideration is not tolled by the filing of any other
12 motion for reconsideration.

13 (d) Failure to file a timely motion for reconsideration, cross motion for reconsideration, or
14 response, shall constitute waiver of the right to do so.

15 ~~(e) A motion for reconsideration of an order adopting, repealing, or amending a rule shall~~
16 ~~be treated by the Commission as a petition to adopt, repeal, or amend a rule under Section~~
17 ~~120.54(7), F.S. and Rule 28-103.006, F.A.C.~~

18 (2) Contents. Any motion or response filed pursuant to this rule shall contain a concise
19 statement of the grounds for reconsideration, and the signature of counsel, if any.

20 (3) Time. A motion for reconsideration of a final order shall be filed within 15 days after
21 issuance of the order. A response to a motion for reconsideration or a cross motion for
22 reconsideration shall be served within 7 days of service of the motion for reconsideration to
23 which the response or cross motion is directed. A response to a cross motion for
24 reconsideration shall be served within 7 days of service of the cross motion.

25 *Rulemaking Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57 FS.*

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NOTICE OF DEVELOPMENT OF RULEMAKING
UNDOCKETED
PAGE 8

1 *History—New 12-21-81, Amended 10-4-84, Formerly 25-22.60, Amended 7-11-96, 1-1-*

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NOTICE OF DEVELOPMENT OF RULEMAKING
 UNDOCKETED
 PAGE 9

25-40.001 Exceptions to the Uniform Rules of Procedure.

The following provisions of the Commission’s rules are exceptions to the uniform rules of procedure:

UNIFORM RULE	COMMISSION RULE THAT IS AN EXCEPTION
CHAPTER 28-102, F.A.C. AGENDA AND SCHEDULING OF MEETINGS AND WORKSHOPS	Rule 25-22.0021, F.A.C. Agenda Conference Participation.
CHAPTER 28-102, F.A.C. – AGENDA AND SCHEDULING OF MEETINGS AND WORKSHOPS AND CHAPTER 28-106, F.A.C. – DECISIONS DETERMINING SUBSTANTIAL INTERESTS	Rule 25-22.0022, F.A.C. Oral Argument Rule.
Rule 28-102.001, F.A.C. Notice of Public Meeting, Hearing, or Workshop.	Rule 25-22.001, F.A.C. Notice of Meeting or Workshop.
Subsection 28-102.002(2), F.A.C. Agenda of Meetings, Hearings, and Workshops.	Rule 25-22.002, F.A.C. Agenda of Meetings.
CHAPTER 28-103, F.A.C. RULEMAKING	Rule 25-22.017, F.A.C. Rulemaking Proceeding—Adoption.
CHAPTER 28-106, F.A.C. DECISIONS DETERMINING SUBSTANTIAL INTERESTS	Rule 25-22.006, F.A.C. Confidential Information. Rule 25-22.029, F.A.C. Point of Entry Into Proposed Agency Action Proceedings. Rule 25-22.0376, F.A.C. Reconsideration of Non-Final Orders. Subsections 25-22.0406(7)-(8) , F.A.C. Notice and Public Information on General Rate Increase Requests by Electric, Gas and Telephone Companies. Subsections 25-22.0407(8) and (10) , F.A.C. Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities. Rule 25-22.060, F.A.C. Motion for Reconsideration.
Rule 28-106.205, F.A.C. Intervention.	Rule 25-22.039, F.A.C. Intervention.
Rule 28-106.208, F.A.C. Notice of Hearing.	Rule 25-22.029, F.A.C. Point of Entry into PAA Proceeding. Rule 25-22.0405, F.A.C. Notices of Hearings.
Rule 28-106.212, F.A.C. Subpoenas.	Rule 25-22.045, F.A.C. Subpoenas.
CHAPTER 28-107, F.A.C. LICENSING	Rule 25-22.075, F.A.C. Transmission Line Permitting Proceedings. Rule 25-22.080, F.A.C. Electrical Power Plant Permitting Proceedings.

Rulemaking Authority 120.54(5)(a)3. FS. Law Implemented 120.54(5)(a)3. FS. History—New 4-28-99, Amended 3-28-07, 9-28-15, _____.

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