

STATE OF FLORIDA

COMMISSIONERS:
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OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

October 4, 2017

John MacIver
Rules Ombudsman in
The Executive Office of the Governor
John.maciver@eog.myflorida.com

SENT VIA E-MAIL

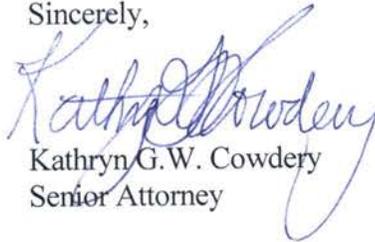
Re: Docket No. 20170163-OT; Rules 25-22.017, 25-22.039, 25-22.060, and 25-40.001, F.A.C.

Dear Mr. MacIver:

The Florida Public Service Commission proposed the above-listed rules at their regular agenda conference on October 3, 2017. The Commission has determined that these rules will affect small businesses. Accordingly, pursuant to Section 120.54(3)(b)2.b.(I), Florida Statutes, enclosed is a copy of the Florida Administrative Register (FAR) notices of the proposed rules, which were published in the October 4, 2017 edition of the FAR. Also enclosed is a copy of the statement of estimated regulatory costs (SERC). The SERC concluded that the proposed rule repeals and amendments will not have an adverse effect on small businesses. Pursuant to your instructions, we have filled out and included a copy of the OFARR rulemaking notification form.

If there are any questions with respect to this/these rules, please contact me at (850) 413-6216 or kgcowdery@aol.com.

Sincerely,


Kathryn G.W. Cowdery
Senior Attorney

RECEIVED-FPSC
2017 OCT -4 PM 2:25
COMMISSION
CLERK

Enclosures
cc: Office of the Commission Clerk

To: Alexandra Phillips, Director

Submitted By: Kathryn G.W. Cowdery, Senior Attorney
Florida Public Service Commission
850-413-6216

Re: Rulemaking Notification for:

Rule Number	Rule Title
25-22.017	Rulemaking Proceeding - Adoption
25-22.039	Intervention
25-22.060	Motion for Reconsideration of Final Orders
25-40.001	Exceptions to the Uniform Rules of Procedure

List EACH rule singly. Add lines as needed.

Date: October 4, 2017 Date of anticipated publication: October 4, 2017

Does this rule qualify for Rules Ombudsman review in accordance with section 120.54(3)(b), F.S.?

Yes No

Please complete this form when submitting rulemaking notification to the Office of Fiscal Accountability and Regulatory Reform (OFARR) pursuant to Executive Order 11-211. **If any information or documents are missing, the notification will be returned without review. OFARR will indicate what is missing, and the completed notification must be resubmitted.**

1. Proposed Rulemaking Activity:

Notice of Development of Rulemaking – Attach the proposed Notice. If no text is available, give a detailed explanation of the rulemaking, including why it is necessary.

Notice of Proposed Rule – Attach the proposed Notice, “Is a SERC Required” Checklist, and SERC (if required), all materials incorporated by reference, and all forms referenced or required by the rule.

Notice of Emergency Rule – Attach the proposed Notice. Explain fully why emergency rulemaking is appropriate.

Notice of Change – Attach the proposed Notice. Be sure the text is coded correctly according to Rule 1B-30.003(5)(f), F.A.C. Explain why a change is required. Attach any correspondence from JAPC or the public. If no documents exist, summarize any public comment the agency has received or public hearings/workshops the agency has held.

Notice of Withdrawal – Attach the proposed Notice. Explain why it is necessary to withdraw the rulemaking. Include any JAPC correspondence.

Other – Attach the proposed Notice. Include detailed information about the rulemaking.

Notices should be coded according to Rule 1-1.011, F.A.C.

Office of Fiscal Accountability and Regulatory Reform

Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

2. Is this rulemaking included in the agency's Annual Regulatory Plan (ARP)? Yes

3(a). For each amendment or new rule:

25-22.017	Rulemaking Proceeding - Adoption
Increase Fees	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
Increase Regulation (I.E., Additional Licensure, Continue Education Requirements, etc.)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
25-22.039	Intervention
Increase Fees	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
Increase Regulation (I.E., Additional Licensure, Continue Education Requirements, etc.)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
25-22.060	Motion for Reconsideration of Final Orders
Increase Fees	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
Increase Regulation (I.E., Additional Licensure, Continue Education Requirements, etc.)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
25-40.001	Exceptions to the Uniform Rules of Procedure
Increase Fees	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
Increase Regulation (I.E., Additional Licensure, Continue Education Requirements, etc.)	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>

List EACH rule singly. Add tables as needed.

3(b). For each new rule the following information is required:

[Insert Rule Number]	[Insert Rule Title]
[Insert Statute Authorizing Rulemaking]	[Insert quote of specific statutory language authorizing rulemaking authority]
[Insert Statute Mandating Rulemaking]	[Insert quote of specific statutory language requiring rulemaking]
New rule is due to a Legislative change occurring within the past 24 months	Yes <input type="checkbox"/> (provide chapter law and effective date) No <input type="checkbox"/>

List EACH rule singly. Add tables as needed.

4. Has the agency received any public comment about this rulemaking, since the last rulemaking notification? No

If yes, please summarize the comment and the agency's position regarding the comment (i.e. has made or intends to make changes based on the comment, disagrees with the comment, etc.) and attach any documents.

Office of Fiscal Accountability and Regulatory Reform
Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

5. Has the agency received any lower cost regulatory alternatives (LCRA)? No _____

If yes, describe in detail what action the agency took in response to the LCRA.

6. Has the agency received any comment from JAPC, since the last rulemaking notification? No _____

If yes, please summarize the comment and attach any documents.

Notice of Proposed Rule

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: To repeal Rule 25-22.017, F.A.C., as obsolete and unnecessary to the implementation of Section 120.54, FS; to repeal Rule 25-22.039, F.A.C., Intervention, and replace it with Rule 28-106.205, F.A.C., the Uniform Rule of Procedure on Intervention; and to amend Rule 25-22.060, F.A.C., to delete obsolete language referencing repealed Uniform Rules of Procedure chapters 28-103 and 28-107, FS, and to clarify that motions for reconsideration are not appropriate in rulemaking proceedings.

Docket No. 20170163-OT

SUMMARY: Rule 25-22.017, F.A.C., is repealed as obsolete and unnecessary to implementation of Section 120.54 FS. Rule 25-22.039, F.A.C., is repealed and replaced with Uniform Rule of Procedure 28-106.205, F.A.C. Rule 25-22.060, F.A.C., is amended to delete obsolete reference to repealed Uniform Rule of Procedure chapters 28-103 and 28-107, F.A.C., and to clarify that motions for reconsideration are not appropriate in rulemaking proceedings.

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), FS, and concluded that the rule amendment and repeals will not have an adverse impact on economic growth, business competitiveness, or small business.

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

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

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: Kathryn G.W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6216, kcowdery@psc.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-22.017 Rulemaking Proceeding - Adoption.

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

25-22.039 Intervention.

Rulemaking Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57 FS. History—Formerly 25-2.34, Amended 12-21-81, Formerly 25-22.39, Repealed _____.

25-22.060 Motion for Reconsideration of Final Orders.

(1) Scope and General Provisions.

(a) Any party to a proceeding who is adversely affected by an order of the Commission may file a

motion for reconsideration of that order. The Commission will not entertain any motion for reconsideration of any order that disposes of a motion for reconsideration. Petitions for reconsideration are not authorized in the rulemaking process, and the Commission will not entertain any motion for reconsideration on the adoption, repeal, or amendment of a rule.

(b) through (d) No change.

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

(2) through (3) No change.

Rulemaking Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57 FS. History--New 12-21-81, Amended 10-4-84, Formerly 25-22.60, Amended 7-11-96, 1-1-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn G. W. Cowdery

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2017

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 43, Number 125, June 28, 2017.

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

SELECT A TYPE: amendment

RULE NO: RULE TITLE:

25-40.001: Exceptions to the Uniform Rules of Procedure

PURPOSE AND EFFECT: To delete reference to Uniform Rules of Procedure Chapters 28-103 and 28-107, FS, and to delete Rule 25-22.039, F.A.C., from the list of exceptions because it has been repealed.

Docket No. 20170163-OT

SUMMARY: Rule 25-40.001, F.A.C., is amended to delete reference to Uniform Rules of Procedure Chapters 28-103 and 28-107, F.A.C., because those chapters are repealed and to delete Rule 25-22.039, F.A.C., from the list of exceptions because it has been repealed.

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), FS, and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business.

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: 120.54(5)(a)3. FS

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

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: Kathryn G.W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6216, kcowdery@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS: [TYPE AND STRIKE VERSION]

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 of Final Orders.
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, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn G. W. Cowdery
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2017
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 43, Number 125, June 28, 2017.

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: July 26, 2017

TO: Kathryn G.W. Cowdery, Senior Attorney, Office of the General Counsel

FROM: Suzanne M. Ollila, Economic Analyst, Division of Economics *S.M.O.*

RE: Statement of Estimated Regulatory Costs for Proposed Repeal of Rules 25-22.017 and 25-22.039 and for Proposed Amendments to Rule 25-0.600 and 25-40.001, Florida Administrative Code (F.A.C.)

The purpose of the recommended rulemaking is to repeal two rules and to amend two rules. Rule 25-22.017, F.A.C., Rulemaking Proceeding - Adoption, would be repealed as obsolete and unnecessary to the implementation of Section 120.54, Florida Statutes (F.S.). Rule 25-22.039, F.A.C., Intervention, would be repealed and the Commission would follow the Uniform Rule of Procedure Rule 28-106.205, F.A.C. Rule 25-22.060, Motion for Reconsideration for Final Orders, would be amended to delete paragraph (1)(e) as obsolete and unnecessary for the implementation of Section 120.54, F.S. Rule 25-40.001, F.A.C., Exceptions to the Uniform Rules of Procedure, would be amended to remove Chapters 28-103, F.A.C., Rulemaking, and 28-107, F.A.C., Licensing, from the list of Uniform Rules because those chapters are repealed. If Rule 25-22.039, F.A.C., Intervention, is repealed, Rule 25-40.001, F.A.C. would be amended to remove Rule 25-22.039, F.A.C.

The attached SERC addresses the considerations required pursuant to Section 120.541, F.S. No workshop was requested in conjunction with the recommended rule revisions. 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.

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Chapter 25-22.017, 25-22.039, 25-22.060, and 25-40.001, F.A.C.

1. Will the proposed rule have an adverse impact on small business?
[120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes

No

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes

No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)1, F.S.]

Economic growth Yes No

Private-sector job creation or employment Yes No

Private-sector investment Yes No

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets) Yes No

Productivity Yes No

Innovation Yes No

(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:

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.

Anyone who wants to be involved in a proceeding where intervention is an issue will be required to comply with the rule.

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

Regulated electric, gas, telecommunications, and water and wastewater entities as well as any potential party to a proceeding.

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.

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:

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.