

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 20180029-WS

PROPOSED AMENDMENT OF RULE  
25-30.433, F.A.C., RATE  
CASE PROCEEDINGS.

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PROCEEDINGS: HEARING  
COMMISSIONERS  
PARTICIPATING: CHAIRMAN ART GRAHAM  
COMMISSIONER JULIE I. BROWN  
COMMISSIONER DONALD J. POLMANN  
COMMISSIONER GARY F. CLARK  
COMMISSIONER ANDREW G. FAY

DATE: Tuesday, May 8, 2018

TIME: Commenced: 10:20 a.m.  
Concluded: 11:13 a.m.

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: DEBRA R. KRICK  
Court Reporter

PREMIER REPORTING  
114 W. 5TH AVENUE  
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1 APPEARANCES:

2 J.R. KELLY, PUBLIC COUNSEL; CHARLES  
3 REHWINKEL, DEPUTY PUBLIC COUNSEL; Office of Public  
4 Counsel, c/o the Florida Legislature, 111 W. Madison  
5 Street, Room 812, Tallahassee, Florida 32399-1400,  
6 appearing on behalf of the Citizens of the State of  
7 Florida.

8 KATHRYN COWDERY, ESQUIRES, FPSC General  
9 Counsel's Office, 2540 Shumard Oak Boulevard,  
10 Tallahassee, Florida 32399-0850, appearing on behalf of  
11 the Florida Public Service Commission Staff.

12 KEITH HETRICK, GENERAL COUNSEL; MARY ANNE  
13 HELTON, DEPUTY GENERAL COUNSEL; JENNIFER CRAWFORD,  
14 ESQUIRE, Florida Public Service Commission, 2540 Shumard  
15 Oak Boulevard, Tallahassee, Florida 32399-0850, Advisor  
16 to the Florida Public Service Commission.

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1 P R O C E E D I N G S

2 CHAIRMAN GRAHAM: All right. Let the record  
3 show it is Tuesday, May 8th. I have exactly 10:20  
4 on my clock, and this is Docket No. 180029-WS. And  
5 we will call this hearing to order.

6 Staff, if I can get to you read the notice,  
7 please.

8 MS. COWDERY: By notice published in the  
9 April 13th, 2017 edition of the Florida  
10 Administrative Register, this time and place was  
11 set for hearing in Docket No. 18029-WS.

12 The purpose of the hearing is to consider the  
13 petition of the Office of Public Counsel on  
14 proposed paragraphs (1)(d) and (2)(c) of proposed  
15 Rule 25-30.433, FAC, that was proposed by the  
16 Commission at the March 5th, 2018 edition of the  
17 Florida Administrative Register.

18 CHAIRMAN GRAHAM: Thank you, staff.

19 Let's take appearances.

20 OPC.

21 MR. REHWINKEL: Thank you, Mr. Chairman,  
22 Commissioners, Charlse Rehwinkel, Deputy Public  
23 Counsel. And here with me is J.R. Kelly, Public  
24 Counsel, on behalf of the customers and citizens of  
25 Florida.

1 MS. COWDERY: Kathryn Cowdery for staff.

2 MS. HELTON: Mary Anne Helton here as your  
3 advisor. Also entering an appearance for your  
4 General Counsel, Keith Hetrick.

5 CHAIRMAN GRAHAM: Okay. Any other attorneys?  
6 No.

7 Preliminary matters, staff.

8 MS. COWDERY: Staff, has no preliminary  
9 matters.

10 CHAIRMAN GRAHAM: Argument and evidence by  
11 Office of Public Counsel.

12 OPC.

13 MR. REHWINKEL: Thank you, Mr. Chairman. And  
14 I passed -- have given staff a couple of documents  
15 to pass out. One I -- well, I intend to refer to  
16 both of them. One is modified proposed language,  
17 and the other is a notice of rule-making that the  
18 Commission recently issued on May 2nd in docket  
19 2017022.

20 And with that, I will begin my remarks. I  
21 have some prepared remarks to read into the record  
22 for you today.

23 CHAIRMAN GRAHAM: Sure.

24 MR. REHWINKEL: Commissioners, my name is  
25 Charles Rehwinkel, Deputy Public Counsel; and the

1 citizens, through the Office of Public Counsel, or  
2 the OPC, have requested a hearing on the rule  
3 proposal contained in the Commission's March 5,  
4 2018, notice of rule-making. The rule provisions  
5 impact the information that the Commission shall,  
6 by rule, consider when evaluating quality of  
7 service, and the condition of the water company's  
8 infrastructure.

9 In the fall of 2017, the OPC participated in a  
10 rule development workshop and offered oral comments  
11 that were later reduced to written comments that  
12 were submitted on January 5, 2018.

13 In these comments, the citizens drew on  
14 experience in past rate cases where perhaps uneven  
15 or limited consideration was given to written  
16 customer comments, or to those complaints or  
17 comments that were informally submitted either at  
18 staff meetings held in the service territory, or  
19 perhaps via email or via mailed comments on forms  
20 from customer hearings or technical hearings.

21 Our comments to you enumerated the types of  
22 comments and testimony information that we believed  
23 the Commission should be considering and which, at  
24 various times, it has considered in making quality  
25 of service determinations. The polestar of the

1 Public Counsel's comments was that the customers'  
2 intent in conveying complaints about service was  
3 the most important thing.

4 On February 16 of this year, your staff filed  
5 a recommendation containing suggested rule language  
6 for you to consider proposing. The purpose of the  
7 proposal was principally, it stated, to codify the  
8 information the Commission considers when  
9 evaluating the utility's quality of service, and  
10 when evaluating infrastructure and operational  
11 conditions of the utility's plant and facilities.

12 With respect to consideration of customer  
13 input, paragraph (1)(d) was proposed by staff to  
14 read: Any testimony, complaints and comments of  
15 the utility's customers and others with knowledge  
16 of the utility's quality of service.

17 With respect to consideration of customer  
18 input, paragraph (1)(d) was proposed by staff to  
19 read: Any testimony, complaints and comments of  
20 the utility's customers and others with knowledge  
21 of the infrastructure and operation conditions of  
22 the utility's plant and facilities.

23 In the narrative accompanying the staff's  
24 suggested language, the OPC suggested enumeration  
25 was deemed to be unnecessary. The staff stated:

1 Staff believes that the recommended rule language  
2 in paragraph (1)(d) that the Commission will  
3 consider any testimony, complaints and comments of  
4 the utility's customers and others with knowledge  
5 of quality of service is broad enough to  
6 sufficiently cover the many ways that customer  
7 complaints and comments are provided to the  
8 Commission, e.g., both oral and written statements  
9 directly from customers, OPC testimony in its  
10 representation of customers, Commission staff  
11 testimony regarding customer complaints.

12 Mindful of circumstances that occurred 30  
13 years ago, when the specific language in a staff  
14 rule was not consistent with the Commission's  
15 intent in fashioning a rule dealing with customer  
16 service in the telephone industry, the OPC  
17 suggested that the parenthetical from the staff  
18 memo, or something similar, be included to provide  
19 a measure of assurance that the intent described by  
20 staff was properly reflected in the staff suggested  
21 language. The OPC submitted a case that described  
22 the conflict between intent and specific language  
23 in that Southern Bell case.

24 This case involved a situation where the staff  
25 investigated service offerings of the phone company

1 to see if the lowest price without additional  
2 features was being quoted per the rule. Staff  
3 members posing as customers asked questions and  
4 presented information that the company was  
5 routinely quoting higher prices than the minimum  
6 and proposed a show cause be issued. The specific  
7 language of the rule required that -- the quote to  
8 be given to a customer applying for service.

9 The Commission, including one who this hearing  
10 room was named for and one who your building is  
11 named after, found that the specific language of  
12 the rule meant that the Commission couldn't enforce  
13 the rule unless a savvy customer actually applying  
14 for service documented the transaction. The  
15 Commission said that its intent was being carried  
16 out by the staff, but the specific language of the  
17 rule controlled. The show cause order was not  
18 issued and the rule was not enforced.

19 Though ignored by the Commission and your  
20 staff, this case stands for the proposition that  
21 the intent of the Commission is not important if it  
22 is not reflected in the language of the rule.  
23 Since the staff had indicated that the general  
24 language starting with the word "any", that they  
25 proposal was, quote, "broad enough," the strong



1           implication was embedded in the suggested rule  
2           language that the intent of the mandatory  
3           documentation to be considered had been captured.

4           At the agenda, the OPC suggested revision was  
5           not agreed to by at least one Commissioner. At  
6           least one and perhaps two Commissioners seemed  
7           amenable to some listing of comments -- comment  
8           sources in the rule.

9           A company representative attorney who stated  
10          that he had not originally intended to participate  
11          was asked his opinion, and he essentially lodged a  
12          general objection that the OPC language was not  
13          needed, and would somehow, quote, "conflict with  
14          another rule that was going to be taken up in the  
15          near future."

16          Having thus heard that a lawyer represented  
17          the company, who essentially happened upon the  
18          proceedings, had a nonspecific objection to  
19          concerns, or as one Commissioner put it, the  
20          comment of the customers was thus -- were thus  
21          disregarded, and no change was made to the  
22          language.

23          Additionally, compromised language that was  
24          suggested by staff was not acted upon or put to a  
25          vote.

1           This wholesale rejection of the language that  
2           was lifted straight from staff's recommendation,  
3           coupled by the objection by a utility lawyer has  
4           created an unfortunate appearance that the language  
5           that was suggested by the attorney for the  
6           customers, but rejected, means that an ambiguity --  
7           ambiguity has been created about what documentation  
8           must be considered by the Commission when  
9           evaluating quality of service, and/or the  
10          conditions of the utility facilities when setting  
11          rates. Remember the factors listed in the rule  
12          follow the directive that they shall be considered.

13           It was suggested on March 1 at the Agenda that  
14          the term "any" is broad enough to cover the types  
15          of testimony, complaints and comments the OPC had  
16          listed. The OPC does not agree, given that the  
17          rule is intended to codify Commission practice, and  
18          that there has been uneven application of the types  
19          of information considered available upon which the  
20          Commission can and must base a decision.

21           For example, in the 1997 Gulf Utility  
22          overearnings rate case in order No. 97 -- it  
23          probably should be 1997-0847-FOF-WS, the Commission  
24          evaluated customer service by stating that customer  
25          satisfaction is, quote, "also evaluated by a review

1 of recent complaints and with direct customer  
2 testimony at hearing."The qualifier direct suggests  
3 that the testimony that was considered was live,  
4 and given only at a formal hearing.

5 Whether this case was replicated elsewhere is  
6 unknown and beside the point. The point here is  
7 that there exists an example in agency precedent  
8 where a qualifier was applied to what constitutes  
9 testimony, and it is conceivable that this could  
10 happen again.

11 The fact that the inclusive enumeration was  
12 rejected in a transcribed proceeding would open the  
13 door to an argument by a future commission that  
14 this commission had -- that the commission -- that  
15 that commission had discretion to define what any  
16 means and what testimony means, and to do so in a  
17 more limiting fashion. The city's -- the citizens  
18 would like to avoid this, and have language -- and  
19 have the language square with the intent.

20 We would note that the Commission recently  
21 issued a notice of rule-making -- and that's one of  
22 the items that I passed out -- on May 2nd, 2018,  
23 regarding recordkeeping and responses to customer  
24 complaints. This notice was issued in docket  
25 20170222. The rule amendment proposed was to rule

1 25-30.130, FAC.

2 There, the Commission used more specificity to  
3 define complaints. It didn't say any complaints.  
4 And also more sharply delineated the acceptable  
5 method of the company to communicate with customers  
6 as being either verbal or written.

7 And I probably would mention here that that  
8 probably should say oral, because verbal could mean  
9 written. I think you mean by the telephone, or by  
10 paper or electronic transaction -- or transmission.

11 But anyway, the specific language is similar  
12 to what the OPC would like to see the Commission  
13 adopt in the final rule.

14 Given the background that I have reviewed in  
15 detail here today, the citizens are proposing a  
16 modification of the language that was proposed in  
17 our March 1 -- in the March 1, 2018, Agenda  
18 proceeding. We believe that this language would  
19 meet the concerns that were expressed by all, and  
20 that it -- it is -- it is language that simply  
21 states a minimum of what shall be considered  
22 without excluding anything. Specifically, the  
23 Public Counsel proposes that the provisions read,  
24 for (d) in (1): Any testimony, complaints and  
25 comments of the utility's customers and others with

1 knowledge of the utility's quality of service,  
2 parenthesis -- and this is the important part --  
3 including both oral and written statements provided  
4 by the -- by customers, formal and informal  
5 testimony by any party, and Commission staff  
6 testimony regarding customer complaints. And that  
7 same language would go in the parenthetical for the  
8 infrastructure section.

9 I would note that one of the objections that  
10 was voiced by the utility representative was that  
11 the word "directly" was problematic. And we've  
12 removed that and made this more generous to  
13 encompass oral and written statements by the  
14 Commission. And that's consistent with what the --  
15 what you recently did in a recent proposed rule.

16 We believe this language would give sufficient  
17 specificity such that the decades of experience the  
18 Office has garnered tells us that there would be  
19 little or an acceptable -- acceptably small risk  
20 that a vital source of customer input would be  
21 excluded.

22 The citizens further believe that our proposed  
23 language is appropriate when measured against  
24 another modification that occurred on March 1,  
25 2018, in paragraph (1)(b), where the Commission's

1 discretion to consider DEP consent orders is  
2 proposed to be circumscribed by the phrase, quote,  
3 "provision of."

4 This last minute change to the staff suggested  
5 language was not part of an analysis that indicated  
6 it was a codification of a Commission practice in  
7 the water and wastewater industry regulation such  
8 that it would bind or limit this commission, or  
9 future commissions' ability to consider the overall  
10 impact of consent orders in quality of service  
11 evaluations and determinations if circumstances in  
12 a future case called for it.

13 Citizens are here today to express a concern  
14 that one part of the rule that we have just  
15 discussed at length in (1)(c) and (2)(d), is  
16 perhaps -- is portrayed as an attempt to codify a  
17 Commission policy where the intent is to be broadly  
18 construed to include available resources for  
19 measuring and evaluating quality of service, while  
20 another portion seems to be designed up front to  
21 constrict the scope of documentation that could  
22 bear on quality of service.

23 While we believe that both provisions should  
24 be read as broadly as possible, we certainly do not  
25 believe that the restriction with respect to

1 consent orders should have an interpretational  
2 bearing on the provisions for which OPC has  
3 proposed language.

4 As both provisions were proposed  
5 contemporaneously, the specter looms of a thematic  
6 interpretation of a narrower scope of the  
7 Commission, a narrower scope that would be made of  
8 the customer input language. We would question  
9 that pract -- what practice of the Commission the  
10 consent order language is intended to codify, as we  
11 are unaware that a problem has arisen in the water  
12 and wastewater industry regulation that has given  
13 rise to the need for the language. So we believe  
14 this is a -- this is a interpretational issue that  
15 bears on the one we've brought up.

16 We are prepared to answer questions or to  
17 discuss this matter further as the Commission  
18 desires. We commend the language that we have  
19 proposed that we have distributed here today for  
20 your consideration.

21 Thank you.

22 CHAIRMAN GRAHAM: Thank you, Mr. Rehwinkel.

23 Are there any other arguments or evidence from  
24 other affected persons?

25 Seeing none, any other matters that need to be

1 addressed, staff?

2 MS. COWDERY: No, sir.

3 CHAIRMAN GRAHAM: Okay. All right. So this  
4 is going to come back to the Commissioners. Before  
5 I go to my commissioners, I want to personally  
6 thank OPC for their involvement in this. This is  
7 something that I have worked on for a while, and  
8 I -- I appreciate your support and your -- your  
9 enthusiasm.

10 This is -- it's a subtle change, but I thought  
11 it was a subtle change that we need to get on,  
12 because I think we are drilling down and focusing  
13 more on quality, and not necessarily the -- the --  
14 we are focusing on the quality of the water, not  
15 necessarily the process of the water. And not that  
16 we are not focusing on the process anymore, but we  
17 are segregating it so we can be clear which is  
18 which, and I do appreciate you guys being involved  
19 in that.

20 Commissioners. Commissioner Brown.

21 COMMISSIONER BROWN: Thank you.

22 So just when I was getting comfortable with  
23 the language that you proposed, you went ahead and  
24 switched it on us. So -- and really, I mean I  
25 looked at this language that you used. I thought



1 the e.g. was, you know, in Latin, for the sake of  
2 example, I -- I was getting comfortable with that.  
3 You changed it to including. And I remember at  
4 the -- when we discussed this with legal,  
5 Mr. Hetrick said that including but not limited to  
6 was not acceptable for JAPC, but when you put  
7 including rather than e.g., it almost seems that  
8 that's all that can be considered. It's -- it's  
9 even more narrow than what staff proposed  
10 originally.

11 MR. REHWINKEL: Well, I think the staff  
12 commented that e.g. was not good. They asked -- I  
13 think in the transcript, they suggested -- they  
14 suggested that e.g. shouldn't be in there.

15 In our remarks, we -- we made the point  
16 that -- and we took the including but not limited  
17 to caution to heart.

18 Including is, to us, the same as at least.  
19 And we would be happy if it said at least, because  
20 that would be a minimum. But our point was that if  
21 this is specifically spelled out, we are  
22 comfortable that there can't be any qualifiers  
23 applied to terms like testimony. We've reduced it  
24 to statements, written or oral from customers. And  
25 we believe that's the universe that we would be

1 concerned with. It would take care of our concern  
2 in the Gulf Utility case.

3 And so that -- that's our suggestion. We  
4 are -- we are open to something that says at least  
5 if that's acceptable to JAPC.

6 COMMISSIONER BROWN: I -- so I talked to staff  
7 about this, and they were fine, pursuant to our  
8 discussions, with for example.

9 MS. COWDERY: For -- we were -- when we said  
10 not to use e.g., it was because of the plain  
11 language of requirements of 120, and if the  
12 Commission were to want to give examples, the words  
13 for example should be used instead of e.g. is what  
14 our position was on that.

15 MR. REHWINKEL: And for example, comma,  
16 instead of including, would be fine with us.

17 COMMISSIONER BROWN: Okay. I think that --  
18 the way that you have it the new language, it seems  
19 to me, a little bit more limiting, so for example  
20 would be preferable.

21 The other change you made was provided by, and  
22 you touched on it in your comments, rather than  
23 directly from customers. And you said that the  
24 utility had a problem with directly from customers.  
25 But provided by -- so you are saying that hearsay,

1 a customer can say -- if you used provided by  
2 rather than hearing directly from customers, you  
3 want to allow that type of hearsay to be  
4 considered.

5 MR. REHWINKEL: Well, the Commission receives  
6 input from customers in a variety of ways, as you  
7 know. I mean, sometimes it's people who come to  
8 the formal hearing, or a service hearing, where  
9 they are sworn in and they testify live. And there  
10 are some people that -- that fill out the blue or  
11 the green sheets and mail those in. And there are  
12 some that send emails. They make phone calls.  
13 They -- they complain to the company, and then you  
14 get the complaints.

15 So if there is a -- if there is a better way.  
16 The word directly from that case concerns us. So  
17 we are looking for a word that -- we are looking  
18 for a way where there is not any kind of qualifier  
19 that -- that could limit what the Commission  
20 could -- could and shall consider.

21 COMMISSIONER BROWN: So, you know, during  
22 services hearings or customer meetings, sometimes  
23 we get petitions, but then we also get customers  
24 that talk about their neighbor said this. And so  
25 you want to broaden the scope of and allow that as

1 evidence on quality of service?

2 MR. REHWINKEL: Yeah. I mean, I think the  
3 Commission should want the broadest funnel of  
4 information to evaluate and assess quality of  
5 service.

6 COMMISSIONER BROWN: I did not mind directly  
7 at all, but I think provided by opens up a can of  
8 worms there.

9 MR. REHWINKEL: Well, you know, we see  
10 directly as a limitation, and it be an ability for  
11 someone to say, well, that wasn't live, sworn  
12 testimony, so we are not going to consider it.

13 COMMISSIONER BROWN: Okay. And then the other  
14 change you made -- you got rid of OPC testimony in  
15 its representation of customers, and you just wrote  
16 formal and informal testimony by any party.

17 MR. REHWINKEL: Right.

18 COMMISSIONER BROWN: Can you explain why you  
19 changed that?

20 MR. REHWINKEL: Well, for example, I know you  
21 have got an upcoming water and sewer case where the  
22 Public Counsel in and a county are participating.  
23 So it just shouldn't be limited to what the Public  
24 Counsel testifies to. It should be, you know, any  
25 customer representative.

1           You just concluded a UIF proceeding where you  
2           had customer groups there, so we wanted to sort of  
3           broaden that.

4           COMMISSIONER BROWN: And why -- why the change  
5           from your petition, though? What developed as a  
6           result of from when you filed this petition with  
7           the suggestions to this?

8           MR. REHWINKEL: Well, all we did in our  
9           petition, we just re -- we just used the same  
10          language that we came to the Commission on and we  
11          said that this or similar language.

12          So looking at it, we thought that this would  
13          be somewhat of a compromise. It would address  
14          concerns that were raised by the Commissioners. It  
15          would address when -- it would address some  
16          concerns that were raised by counsel for the  
17          utility to take the word directly out.

18          COMMISSIONER BROWN: Okay. And then in your  
19          comments, you talked about the uneven application  
20          on types of information that the Commission can  
21          consider, and you cited a Gulf case. Do you have  
22          any water examples that we had an uneven  
23          application?

24          MR. REHWINKEL: Well, that was -- that was a  
25          water case down in Lee County, Gulf Utility.

1 COMMISSIONER BROWN: Gulf Utility.

2 MR. REHWINKEL: Not Gulf Power.

3 COMMISSIONER BROWN: Oh, okay.

4 MR. REHWINKEL: Yeah. The research on this  
5 would -- was daunting, and, you know, I just found  
6 an example. I didn't go and try to pick every --  
7 you know, and I was at the Public Counsel for six  
8 years, and now I have been back for 10 years. I  
9 don't really -- I didn't live all the experiences  
10 in between there, but I know that there have  
11 been -- there have been situations where sometimes  
12 the -- the record that the Commission might  
13 consider may or may not include informally resolved  
14 complaints, things like that.

15 And we weren't here to complain about that,  
16 because we think the intent by the Commission is to  
17 codify its intent that was expressed in the staff's  
18 February 16th recommendation to consider as much  
19 information as possible. So we just -- we just  
20 thought that -- that, you know, we weren't here to  
21 complain about the past to say that even if it  
22 happened one time, it would be a concern, so let's  
23 just get it right now.

24 COMMISSIONER BROWN: Fair enough.

25 Mr. Chairman, may I?

1           CHAIRMAN GRAHAM:    Sure.

2           COMMISSIONER BROWN:  Staff, have you had a  
3           chance to really look at the new proposed language,  
4           and do you have any thoughts on it?

5           MS. COWDERY:  I don't know what informal  
6           testimony is.  I mean, but, you know, essentially I  
7           think that OPC is attempting to have the same type  
8           language that is presented in the petition.  You  
9           would like a comment?

10          COMMISSIONER BROWN:  Yes.

11          MS. COWDERY:  I completely agree that in  
12          interpreting rules, you look at the plain language  
13          of the rule.  So we start with that, and let's look  
14          at the plain language of what is in your proposed  
15          rule.  And the plain language is any testimony,  
16          complaints and comments, et cetera, et cetera.  
17          That, to me, speaks to the intent directly that you  
18          are looking at any testimony, complaints and  
19          comments.

20          The Southern Bell case that was presented by  
21          OPC I don't think is on point to what we are doing  
22          here, because in that case, you had a -- a rule  
23          that was -- had -- said applicants -- they were  
24          going to do something about applicants, a very  
25          specific rule.  And the intent was broader than

1           that, to include inquiry.

2           In our case, in response to the January 5th  
3           comments of OPC, we broadened the language from the  
4           existing rule. The January 5th comments from OPC  
5           did not contain any specific language. It just  
6           had -- there were just general comments about  
7           making sure that the Commission, you know,  
8           considered a very broad expanse of information, you  
9           know, as to customers, as to persons with knowledge  
10          about operational conditions. And we added  
11          language, and we broadened language, and I don't  
12          know how we could get any broader than what we've  
13          got. I don't -- and the --

14           COMMISSIONER BROWN: And do you think by  
15          putting these suggestions that that is more  
16          narrowing?

17           MS. COWDERY: I think that that is -- that can  
18          absolutely be an interpretation that someone could  
19          raise that this is a more narrowing effort.

20           We don't know what, you know, JAPC would do  
21          with the language for example, or including. We --  
22          we think, you know, we would have to wait and see,  
23          because one doesn't know completely what they would  
24          do.

25           I just want to put that out there, that it's



1 not for sure, you know, if they would accept it or  
2 not. They may accept it. I don't know.

3 I think any uneven application of  
4 consideration of customer comments or input that  
5 may have been seen in the past, it seems to me that  
6 the language we are proposing should take care of  
7 that because of its breadth.

8 As far as the -- using examples in our recent  
9 complaint rule that we just passed, that -- that  
10 was a definition. I mean, we had -- it was a  
11 definition. If you are defining a word, you have  
12 to be very specific as to that word.

13 What we are doing in, you know, having the  
14 determination of quality of service is we want  
15 to -- we want to be inclusive. I don't agree with  
16 OPC that by OPC raising specific examples, and the  
17 Commission not accepting those examples, that that,  
18 in and of itself, creates ambiguity. I think the  
19 reasons for not accepting them were because we see  
20 that the breadth of what we've got in the proposed  
21 rule covers those exceptions -- or those examples,  
22 I am sorry.

23 And Mr. Rehwinkel said that, you know, at  
24 the -- at the worst, there would be an acceptably  
25 small risk that some -- you know, I don't know your

1 exact words, but that some problem could develop in  
2 interpretation if you add these examples. And I  
3 don't think we need to go there. That's just, you  
4 know -- that's why we proposed this in a breadth to  
5 cover all the situations.

6 COMMISSIONER BROWN: Thank you. Mr.  
7 Chairman --

8 CHAIRMAN GRAHAM: Sure.

9 COMMISSIONER BROWN: -- I appreciate  
10 Ms. Cowdery's very rational arguments. They are  
11 compelling.

12 I also appreciate Public Counsel's attempts to  
13 include some of the -- include some examples here  
14 to consider. But I do think that the language that  
15 staff originally developed encompasses all of that,  
16 and I don't think there is ambiguity whatsoever,  
17 but I am open to hearing from the other  
18 Commissioners.

19 CHAIRMAN GRAHAM: Thank you, Commissioner  
20 Brown.

21 Commissioner Fay.

22 COMMISSIONER FAY: Thank you, Mr. Chairman.

23 I -- I, too, had some more thoughts to  
24 Commissioner Brown. I recall this is actually one  
25 of the first items that I saw as a Commissioner,

1 and the -- the proposed language to include that  
2 list was provided a short time before that meeting.  
3 And we had a good discussion in that meeting about  
4 what was included, and how that might be  
5 interpreted as -- as too narrow, or maybe inclusive  
6 and not exhaustive. And we also talked a little  
7 bit about that that was staff's language in a  
8 recommendation that was then brought forward as  
9 something proposed.

10 I was also getting comfortable with this  
11 language that was in front of me until this was  
12 provided to me. And I -- and I had a lot of the  
13 same thoughts, in that I, you know, I think the  
14 more I look at it, the more concerned I am about  
15 some of the language including provided by informal  
16 testimony, those -- those sort of things.

17 So I guess I would just ask, is the goal --  
18 the goal of Public Counsel here would obviously be  
19 to provide the -- the most inclusive, or the  
20 broadest list for consumers; is that -- is that an  
21 accurate statement?

22 MR. REHWINKEL: Thank you, Commissioner Fay.

23 And I -- and I want to say I know it was one  
24 of your first items, and we appreciate that you  
25 reached out, as you are allowed to do, to talk to

1 us about this. We -- we thought that was a good  
2 thing, so I commend you for that.

3 There -- the two fundamental things for us is  
4 that we -- we feel like we've seen instances  
5 where -- where what people think as plain and clear  
6 language starts to get fudged up by qualifiers.  
7 And -- and -- and we don't like that. So we -- we  
8 felt like, on its face, any looks good, but any  
9 isn't any and all. I mean, it just -- any only  
10 applies to the next word, which is testimony. And  
11 if testimony can get sort of detesti -- kind of  
12 have the word modified such that it's not really  
13 testimony anymore, it gives us a concern. So  
14 that's one thing.

15 The -- the other thing with respect to the  
16 list is we felt like that at least these things  
17 were spelled out, we would be comfortable that --  
18 that the 30 to 40 years of experience that we've  
19 had in encountering these things would be -- would  
20 be covered by this enumeration in there.

21 So, you know, on its -- you know, what the  
22 staff, I think, did, and suggested was, we think,  
23 100 percent the right thing to do from the  
24 standpoint of trying to meet the issues that we  
25 raised. We have no problem with that. And we

1 don't think -- we don't think there was anything  
2 deficient about what the staff did and proposed,  
3 and what you proposed in your -- in your rule.

4 We are concerned about the future, and -- and  
5 just the human nature to take -- you know, we are  
6 all -- there is a lot of lawyers involved, and  
7 they -- they apply sort of ways to chip away and  
8 erode at what the Commission is going to consider  
9 in the quality of service area, and it may let  
10 customers down in the future.

11 So that's -- that's all we are concerned  
12 about. I mean, this is not the end of the world.  
13 We just think that it can be improved by putting  
14 some level of enumeration.

15 You know, if provided for is not a good word,  
16 submitted would work for us, too. I mean, it --  
17 it's -- we are not 100 percent wed to this  
18 language, but we would like there to be something  
19 that gives a kind of a safety net of enumeration.

20 COMMISSIONER FAY: Yeah, can I ask a  
21 follow-up, Mr. Chairman?

22 CHAIRMAN GRAHAM: Sure.

23 COMMISSIONER FAY: Thank you.

24 Can I ask, then, when we received the petition  
25 for this -- this 120.54 hearing, the petition spoke

1 to ambiguity. It didn't speak to any -- anything  
2 else that was addressed in the initial hearing and  
3 discussion that we had, which to the earlier  
4 discussion, for example, an e.g. was discussed, and  
5 I think there was maybe some -- some thoughts  
6 that -- that everyone sort of agreed on that maybe,  
7 if done, it would be more appropriate written in  
8 one way or another.

9 Is there a reason that you didn't include any  
10 of that in the petition for this hearing?

11 MR. REHWINKEL: Well, I wanted to just get the  
12 petition in so I could have a hearing. I mean, my  
13 thought was, too, that we would ask for this and  
14 maybe work this language out where we didn't have  
15 to have a hearing, but that didn't happen.

16 So, you know, I -- you know, what we want to  
17 do is get before you and have a more detailed  
18 discussion about this. And -- and, you know, you  
19 are not bound by the exact language that we  
20 originally proposed, or what we brought to you  
21 today. Certainly, you would be within your rights  
22 to not change the language at all, but we are  
23 asking you here to -- to give some thought to  
24 including a little more detail and enumeration.

25 COMMISSIONER FAY: And just one more

1 follow-up.

2 CHAIRMAN GRAHAM: Sure.

3 COMMISSIONER FAY: Thank you.

4 And my -- I will tell you my concern is that,  
5 as we continue to go down this path -- I mean, I  
6 think to -- to Chairman's -- the Chairman's point,  
7 this is a much bigger package of stuff that I think  
8 a lot of people felt was very good, and it was -- I  
9 am glad it was brought forward, and this is kind of  
10 a small component of it, which, to your point, the  
11 lawyers got involved, right? And we get into the  
12 language, it can get more and more complicated.

13 My concern is sort of that -- when does this  
14 stop? I mean, when -- when do we get the rule  
15 finalized and implemented? And I know following  
16 120.54, there is -- there is, you know, potential  
17 for challenges in 120.56, and there is other stuff  
18 that you -- you very well know is out there.

19 And so my concern is everything we've touched  
20 so far has then kind of been brought back to us as  
21 a commission, if it's the staff recommendation, or  
22 our own testimony from the past hearing that's now  
23 deemed proof of ambiguous language, I am concerned  
24 how this next vote might work, right?

25 And so my hope is that, as I was getting

1 comfortable with -- with the language as far as the  
2 initial exchange you and I had as to the intent to  
3 put it in there, and to be inclusive of those  
4 items, I felt fairly comfortable with that, and I  
5 think that there is an -- there might be an  
6 appropriate avenue where that could have been  
7 included to ensure that we are done with this; that  
8 this is an overall good package, and this is a  
9 small part of it, and we can all sort of move on to  
10 the next thing.

11 I don't know -- and it might be just through  
12 my lens, I don't know if what's in front of us  
13 provides that. And to your point, if it's going  
14 back to the original language, I would really -- I  
15 would need some clarity from OPC on their position  
16 as to what -- what would be deemed the right thing  
17 to do; because now I have got a lot of different  
18 options in front of me, and I am a little concerned  
19 that by applying those, you would still have a fair  
20 and appropriate difference of opinion as to if  
21 something is inclusive or not, or ambiguous or not.

22 MR. REHWINKEL: Well, I mean, we certainly  
23 would have no problem if the original language is  
24 adopted. I mean, I only modified it to try to meet  
25 concerns that have been raised. That's the only



1 reason why we did that today.

2 COMMISSIONER FAY: And the directly and  
3 provided by change, that specifically was in  
4 response to -- to some comments from the utility to  
5 make those changes, correct?

6 MR. REHWINKEL: Yeah, Mr. Friedman raised the  
7 issue about the word directly, so I took it out.

8 COMMISSIONER FAY: Okay. Yeah. And that's  
9 helpful, because I do -- I do -- similar to our  
10 exchange in the initial conference, I didn't agree  
11 with the general objection to the language from Mr.  
12 Friedman, right, so I think there is components of  
13 this that we discussed appropriately.

14 MR. REHWINKEL: Yeah.

15 COMMISSIONER FAY: And I think it makes it  
16 very challenging for us to know, then, what -- what  
17 is the right thing going forward that that would  
18 end a lot of this process.

19 MR. REHWINKEL: Yeah. What -- you know, and  
20 the Chairman has made this -- this rule something  
21 of a mission, and we understand and appreciate  
22 that.

23 When we had the workshop, we were asked to  
24 move up our comments so we could get this thing  
25 moved along, and that's why we filed on

1           January 5th. And, you know, we are not trying to  
2           hold this up. Perhaps if we had had one more  
3           workshop, it would have -- we would have been able  
4           to get there; but, you know, I -- we have to --

5           I mean, we are the advocates and the lawyers  
6           for the customers, and we have to step up and do  
7           our best, and what Mr. Kelly thinks is the proper  
8           representation. And that's what we've done. We  
9           are trying to be part of a solution here, and not  
10          trying to drag this out.

11          COMMISSIONER FAY: Sure. Thank you.

12          CHAIRMAN GRAHAM: Commissioner Polmann.

13          COMMISSIONER POLMANN: Thank you, Mr.

14          Chairman.

15          Mr. Rehwinkel, I appreciate your opening  
16          remarks. I highlighted quite a few things. We've  
17          had an interesting discussion here.

18          As Commissioner Brown indicated, I was pretty  
19          comfortable going in here, other than changing e.g.  
20          And the more we talk about it, the less comfortable  
21          I get. So I think we are all pretty clear on the  
22          meaning of shall, and many other things you -- you  
23          referenced a definition that we spent a lot of time  
24          on defining complaint. But, you know, we could  
25          struggle with the definition of consider. We are

1 not going there. But we -- you know, we talked  
2 about including, for example, at least.

3 You just mentioned something about the use of  
4 the -- in the parenthetical, and just a moment ago,  
5 you -- you talked about enumerating the items.  
6 That, to me -- the implication there is that it's  
7 limiting, which is, I think, what we are trying to  
8 avoid. So that leads me to have a feeling that, in  
9 fact, we don't want the parenthesis, even though it  
10 says, for example, which suggests that it's not  
11 limiting in any way, that these just examples the  
12 fact that you, in your comments a minute ago, you  
13 used the phrase that you were trying to enumerate  
14 at least these, you know, causes me some concern of  
15 interpretation.

16 You are voicing an interpretation that this is  
17 an enumeration, and then just by using that, we are  
18 numbering items which necessarily has a limit.  
19 It's not an infinite list. So in conversation,  
20 there is an interpretation, which just leaves it  
21 open to some further interpretation later. So it  
22 causes me pause, which, I think, was part of a  
23 discussion we had in prior, you know, prior  
24 editing. So, again, it leaves me wanting.

25 The whole issue about provided by, and

1 directly, and so forth, and the hearsay, you know,  
2 I understand that whole concern and issue of any,  
3 it surprised me when you said any only applies to  
4 the first word testimony. You know, maybe we  
5 should say any testimony, any comments, and, you  
6 know, any complaints. That seems to me to be more  
7 than plain language. I thought any applied to all  
8 of those words, and -- and less is more. But I can  
9 see, you know, someone could read that, and if they  
10 chose to, I don't think that's the Commission's  
11 intent.

12 The other word in that first line is, beyond  
13 customers, is and others with knowledge. So that,  
14 to me, means anybody and everybody. So, you know,  
15 I am inclined to read it in the most general way,  
16 which, I think, is what we did in the first place.

17 And then getting back to what's in the  
18 parenthesis, OPC testimony, and then you are  
19 changing that to any party. So then when I go back  
20 to others and say, that -- we should put party in  
21 there -- I am just struggling with all the changes  
22 that we've talked about here.

23 I am inclined to just go back to the  
24 original -- either leaving the language the way it  
25 was, or going to your proposal from what we saw

1 here before today. If we want to change e.g., as  
2 staff has suggested -- you know, I took Latin in  
3 high school for -- for three days, and I figured  
4 that was all I needed. Yes, and since only --  
5 apparently only one of us knows what e.g. actually  
6 means.

7 COMMISSIONER BROWN: Two.

8 COMMISSIONER POLMANN: And, you know, for  
9 example or not, just take it all out, leave it in  
10 there -- I didn't have a problem with leaving it  
11 in, because I thought these were examples, not to  
12 exclude anything else, if there is some reason to  
13 change directly to and to some other word, quite  
14 frankly, I am okay either way. I just don't think  
15 the parenthetical is needed, but if it makes  
16 somebody happy, and a majority of this commission  
17 agrees, I am prepared to move forward. I would  
18 prefer not to change too many words. I liked it  
19 the way it was.

20 Thank you, Mr. Chairman.

21 CHAIRMAN GRAHAM: All right.

22 MR. REHWINKEL: May I respond briefly?

23 CHAIRMAN GRAHAM: Sure.

24 MR. REHWINKEL: Thank you.

25 Enumerating was a poor choice of words on my

1 part. I -- I acknowledge that, and I appreciate  
2 you bringing that up.

3 And the -- the -- when I responded to  
4 Commissioner Fay about any, I did not mean that  
5 it's limited just to that. It applies to the next  
6 three words, or the next three nouns there, so I  
7 appreciate that.

8 We are happy with the original language with  
9 e.g. changed to for example. And whether the  
10 parenthesis stay or not, we are indifferent to.  
11 That would be the Commission's bailiwick there as  
12 far as to whether to leave them in or not, so --

13 CHAIRMAN GRAHAM: I think we got enough  
14 options put before us. I personally am not ready  
15 for a bench decision today. I hope that doesn't  
16 kill anybody's motivation. I think that we should  
17 bring this back before us at the Agenda on June 5th  
18 with a recommendation from staff, and so we can  
19 drill down a little deeper if we want. You had the  
20 new suggestions from OPC, and you had the dialogue  
21 that went on here today.

22 Commissioner Clark.

23 COMMISSIONER CLARK: Thank you, Mr. Chairman.

24 I agree with your comments. I don't believe  
25 that anything we can come up with here today we can

1 get two attorneys in this room to agree on, to  
2 begin with. With that in mind, I do have a  
3 question regarding the rest of the proposed  
4 changes.

5 Are we -- is this an appropriate time to  
6 address or question some of the other proposed  
7 language?

8 MS. COWDERY: No, sir. Under 120.54, the only  
9 issues that we had -- that you have before you are  
10 the issues raised in the petition, which have to do  
11 with section (1)(d) and (2)(c).

12 COMMISSIONER CLARK: The document that Mr.  
13 Rehwinkel handed out, that doesn't include --

14 MS. COWDERY: Correct.

15 COMMISSIONER CLARK: -- 230 -- okay, I will  
16 address those later, then.

17 Thank you.

18 CHAIRMAN GRAHAM: Okay. So, staff, I guess we  
19 will put this as a docket for June 5th Agenda?

20 MS. COWDERY: Could you please repeat your  
21 question?

22 CHAIRMAN GRAHAM: I was going to say, so we  
23 will put this as a docket item for June 5th Agenda?

24 MS. COWDERY: Yes, we will do that.

25 CHAIRMAN GRAHAM: Is there anything else you

1 need from us?

2 MS. COWDERY: No, sir.

3 CHAIRMAN GRAHAM: Now, I guess my question is,  
4 you have to make a recommendation based on what you  
5 heard here today at this hearing, and not anything  
6 you can glean after this hearing, is that correct?

7 MS. COWDERY: Yes. The record is based on  
8 what was filed, the petition and what was -- what  
9 was argued and presented today.

10 CHAIRMAN GRAHAM: Okay. That being said,  
11 before I adjourn this meeting, I want to give OPC  
12 parting thoughts, so it will -- you can include  
13 into whatever the staff is going to come up with.  
14 And if you need a minute or two to do that, I will  
15 allow that as well, or if you are ready to go.

16 MR. REHWINKEL: I am ready to go, and I  
17 appreciate it.

18 CHAIRMAN GRAHAM: Sure.

19 MR. REHWINKEL: Thank you, Mr. Chairman. And  
20 I want to thank all the Commissioners for the  
21 engagement in this issue. I mean, this is what the  
22 Public Service Commission is about, and I  
23 appreciate all of the detailed questions and  
24 interest in doing this. Our goal is to help you in  
25 the future with implementing this rule. We are not



1 trying to be in the way.

2 Having said that, we have put, I would say,  
3 two proposals now before you. Having listened to  
4 the feedback and the questions from the  
5 Commissioners, it would be our recommendation that  
6 the language that was originally proposed on  
7 March 1st, with the modifications discussed here  
8 today having to do with replacing e.g. with for  
9 example, comma, and whether the parentheticals stay  
10 is our primary recommendation.

11 We are not opposed to considering other  
12 changes if that's the will of your staff and the  
13 Commission, but we are satisfied with, among the  
14 two choices, the original one as discussed today.

15 And I appreciate the -- the hearing  
16 opportunity and the dialogue.

17 CHAIRMAN GRAHAM: Thank you, Mr. Rehwinkel.

18 Commissioners, any parting thoughts before I  
19 adjourn this meeting?

20 MR. HETRICK: Just one clarification, Mr.  
21 Chair.

22 CHAIRMAN GRAHAM: Sure.

23 MR. HETRICK: And that is, are you taking,  
24 just for the record, the May 8th, today's proposal  
25 off the table then as far as a formal proposal you

1 are making, or are you leaving it up to us to  
2 evaluate that as well? I just would like the  
3 clarification.

4 MR. REHWINKEL: If I may, Mr. Chairman.

5 I would be hesitant to take it off the table  
6 only for this reason, which is, as Ms. Cowdery  
7 says, is that your record is the documentation  
8 that's put before you. If there is something in  
9 this document that is useful for you to consider,  
10 we commend it to you. But again, given what we've  
11 heard today, and the dialogue, our -- our strong  
12 recommendation is the original as modified.

13 CHAIRMAN GRAHAM: Yes.

14 MS. COWDERY: Chairman Graham, I wanted to  
15 make sure I didn't misunderstand Commissioner  
16 Clark's statement. There may have been a semantic  
17 thing going on in my head here. When you said  
18 proposed, I was thinking about our proposed rule.

19 Did you -- did you have a question about the  
20 changes that OPC was bringing forth? I just wanted  
21 to make sure I didn't --

22 COMMISSIONER CLARK: No. They were not  
23 related --

24 MS. COWDERY: Not related to --

25 COMMISSIONER CLARK: They were not related to

1           that specific instance.

2           MS. COWDERY: Okay. All right. Thank you.

3           CHAIRMAN GRAHAM: Okay. I have no lights on  
4           in front of me.

5           Staff, I think you have everything you need.

6           That all being said, we are adjourned.

7           Thank you very much.

8           (Whereupon, the proceedings concluded at 11:13  
9           a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA     )  
COUNTY OF LEON     )

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 14th day of May, 2018.




---

DEBRA R. KRICK  
NOTARY PUBLIC  
COMMISSION #GG015952  
EXPIRES JULY 27, 2020

Public Counsel's May 8, 2018 suggested change to the proposed Rule 25-

30.433(1)(c) and 2(d):

Section (1)

(d) Any testimony, complaints and comments of the utility's customers and others with knowledge of the utility's quality of service (including both oral and written statements provided by customers, formal and informal testimony by any party, and Commission staff testimony regarding customer complaints); and

Section (2)

(c) Any testimony, complaints and comments of the utility's customers and others with knowledge of the infrastructure and operational conditions of the utility's plant and facilities (including both oral and written statements provided by customers, formal and informal testimony by any party, and Commission staff testimony regarding customer complaints); and

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendment of Rules 25-  
30.130, Record of Complaints, and 25-30.355,  
Complaints, F.A.C.

DOCKET NO. 20170222-WS  
ORDER NO. PSC-2018-0223-NOR-WS  
ISSUED: May 2, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
JULIE I. BROWN  
DONALD J. POLMANN  
GARY F. CLARK  
ANDREW GILES FAY

NOTICE OF RULEMAKING

BY THE COMMISSION:

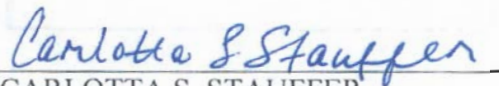
NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has proposed the amendment of Rules 25-30.130, Records of Complaints and 25-30.355, Complaints, Florida Administrative Code, relating to water and wastewater utilities' requirements for responding to and keeping records of customer complaints.

The attached Notice of Proposed Rules appeared in the May 2, 2018, edition of the Florida Administrative Register.

If timely requested, a hearing will be held at a time and place to be announced in a future notice. Written requests for hearing and written comments on the rules must be received by the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than May 23, 2018.

ORDER NO. PSC-2018-0223-NOR-WS  
DOCKET NO. 20170222-WS  
PAGE 2

By ORDER of the Florida Public Service Commission this 2nd day of May, 2018.



CARLOTTA S. STAUFFER

Commission Clerk

Florida Public Service Commission

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399

(850) 413-6770

[www.floridapsc.com](http://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.

KGWC

Notice of Proposed Rule

**PUBLIC SERVICE COMMISSION**

RULE NOS.:      RULE TITLES:

25-30.130      Record of Complaints

25-30.355      Complaints

**PURPOSE AND EFFECT:** To amend the rules to update and clarify water and wastewater utilities' requirements for responding to and keeping a record of customer complaints

Docket No. 20170222-WS

**SUMMARY:** Rule 25-30.130, F.A.C. is being amended to require water and wastewater utilities to keep a record of all complaints received, to identify the information required to be in the record, to require the record to be maintained five years, and to require a utility to provide the record to the Commission upon Commission staff's request.

Rule 25-30.355, F.A.C. is being amended to clarify the definition of complaint, to specify a time frame for a utility to acknowledge and to respond to a customer complaint, to require a utility to specify in its acknowledgement whether any additional action will be taken on the customer's complaint, and to require each utility to have a procedure for receiving and responding to emergency calls 24 hours a day.

**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:** 350.127(2), 367.0812(5), 367.121(1) FS.

**LAW IMPLEMENTED:** 367.0812(1), 367.111, 367.121(1) 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](mailto:kcowdery@psc.state.fl.us).

**THE FULL TEXT OF THE PROPOSED RULE IS:**

25-30.130 Record of Complaints.

(1) Each utility shall maintain a record of all complaints ~~each signed, written complaint received by the utility from any of that utility's customers.~~

(2) ~~Each~~ The record shall show ~~include~~ the name and address of the complainant; the nature of the complaint; the date received; the result of any ~~the~~ investigation; the disposition of the complaint; and the date of the disposition ~~of the complaint~~. The word "complaint" as used in this rule is defined in subsection 25-30.355(2), F.A.C.

(2) ~~Notwithstanding~~ the requirements of paragraph 25-30.130(1)(a), F.A.C., utilities shall maintain a record of each complaint for a minimum of five years from the date of receipt and shall provide a copy of records of



complaints to the Commission upon Commission staff's request. Documentation relating to customer complaints processed under Rule 25-22.032, F.A.C., shall be retained as set forth in paragraph 25-22.032(10)(a), F.A.C.

*Rulemaking Authority 350.127(2), 367.0812(5), 367.121(1) FS. Law Implemented 367.0812(1), 367.111, 367.121(1) FS. History-- New 9-12-74, Formerly 25-10.30, 25-10.030, Amended 11-10-86, \_\_\_\_\_.*

25-30.355 Complaints.

(1) A utility shall give a customer verbal or written acknowledgement of the utility's receipt of the customer's complaint no later than three business days after it receives the complaint. The utility shall specify in its acknowledgement whether any additional action will be taken on the issue(s) raised by the customer. A utility shall investigate the complaint and give the customer a verbal or written response no later than 15 days after it receives the complaint. make a full and prompt acknowledgement and investigation of all customer complaints and shall respond fully and promptly to all customer requests.

(2) ~~For the purpose of this rule the word "complaint" as used in this rule means shall mean an objection made to the utility by a the customer by telephone call, by e-mail, by letter, or on the utility's website form as to the utility's charges, facilities or service, that where the disposal of the complaint requires action by on the part of the utility.~~

(3) Each utility shall have a procedure for receiving and responding to emergency calls 24 hours a day. Examples of emergencies shall include reports of water or wastewater main breaks or conditions caused by utility-owned facilities where property damage or personal injury is reasonably foreseeable. Replies to inquiries by the Commission's staff shall be furnished within fifteen (15) days from the date of the inquiry and shall be in writing, if requested.

*Rulemaking Authority 350.127(2), 367.0812(5), 367.121(1) FS. Law Implemented 367.0812(1), 367.111, 367.121(1) FS. History-- New 9-12-74, Formerly 25-10.70, 25-10.070, Amended 11-10-86, \_\_\_\_\_.*

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: April 20, 2018

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 43, Number 26, February 8, 2017.