

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: June 10, 2019
TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk
FROM: Samantha Cibula, Office of the General Counsel *SMC*
RE: Docket No. 19981104-EU

Please file the attached materials in the docket file listed above.

Thank you.

Attachment

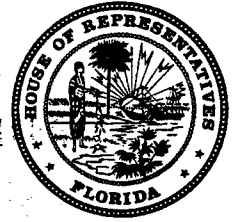
RECEIVED-FPSC
2019 JUN 10 PM 12:59
COMMISSION
CLERK

TONI JENNINGS
President



Senator Walter "Skip" Campbell, Chairman
Representative Bill Posey, Vice Chairman
Senator Ginny Brown-Waite
Senator Lisa Carlton
Representative O. R. "Rick" Minton, Jr.
Representative Adam H. Putnam

JOHN THRASHER
Speaker



THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

CARROLL WEBB, EXECUTIVE DIRECTOR
AND GENERAL COUNSEL
Room 120, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

June 23, 1999

Mr. Richard Bellak
Division of Appeals
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Public Service Commission Rule No: 25-6.049

Dear Mr. Bellak:

According to our records, the above referenced rule was noticed in the Florida Administrative Weekly on **February 2, 1999**, and has not been filed for adoption.

Chapter 120, F.S. requires that rules be filed for adoption not more than 90 days from the date of the original notice unless one of the statutory exceptions applies. The 90-day period for filing this rule expired on **June 21, 1999**.

Subparagraph 120.54(3)(e)5., F.S., requires that if a rule is not adopted within the prescribed time limits, the agency shall withdraw the proposed rule and give notice of the withdrawal in the manner in which the rule was originally noticed. If an exception does not apply, please publish withdrawal of this rule at your earliest convenience.

Sincerely,

A handwritten signature in cursive script that reads "Carroll Webb".

Carroll Webb
Executive Director
and General Counsel

STATE OF FLORIDA

Commissioners:
JOE GARCIA, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.



DIVISION OF APPEALS
DAVID SMITH
DIRECTOR
(850) 413-6245

Public Service Commission

June 23, 1999

Mr. Carroll Webb
Joint Administrative Procedures Committee
Room 120, Holland Building
Tallahassee, FL 32399-1300

Dear Mr. Webb:

In response to your letter of May 27, 1999 concerning amendment of Rule 25-6.049, a hearing was held on May 5, 1999. Presentation of the hearing officers' recommendation to the Commission will require a further hearing, which will extend the time period for filing the amended rule for adoption. That will be an exception to the time periods indicated in your letter which will preserve the timeliness of the rulemaking.

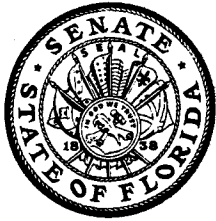
Sincerely,

A handwritten signature in cursive script that reads "Richard C. Bellak".

Richard C. Bellak
Division of Appeals

RCB

TONI JENNINGS
President



Senator Walter "Skip" Campbell, Chairman
Representative Bill Posey, Vice Chairman
Senator Ginny Brown-Waite
Senator Lisa Carlton
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CARROLL WEBB, EXECUTIVE DIRECTOR
AND GENERAL COUNSEL
Room 120, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

May 27, 1999

Mr. Richard Bellak
Division of Appeals
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

**Re: Public Service Commission
Rule Number 25-6.049**

Dear Mr. Bellak:

According to our records, the above-styled rules were noticed in the Florida Administrative Weekly on **February 19, 1999**.

Paragraph 120.54(3)(e), F.S., requires that rules be filed for adoption not more than 90 days from the date of the original notice unless specified circumstances prevail. The 90-day period for filing the rules was extended and expires on **June 21, 1999**.

If you intend to adopt the rules, we remind you that paragraph 120.54(3)(d), F.S., requires that if the rules have not been changed since they were filed with this Committee, or if they contain only technical changes, you must file a notice to that effect with the Committee at least 7 days prior to filing the rules for adoption. If any change has been made in the rules, other than a technical change, you must publish a notice, and file a copy with the Committee, at least 21 days prior to filing the rules for adoption.

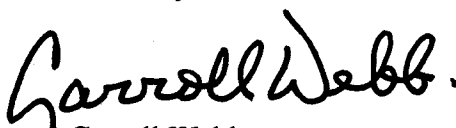
If the rules are not filed within 90 days, and if an exception is not applicable, you must notice withdrawal of the rules. Any further action to adopt the rules must comply with the rulemaking

99 JUN -2 AM 8:30

Mr. Bellak
May 27, 1999
Page 2

procedures of §120.54, F.S. Please advise us of any exceptions which apply to the rules.

Sincerely,

A handwritten signature in black ink that reads "Carroll Webb". The signature is written in a cursive style with a large initial 'C'.

Carroll Webb
Executive Director
and General Counsel

#118479
CW: CW \CADATA\WP61\UR\25-6.90D

STATE OF FLORIDA

Commissioners:
JOE GARCIA, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
E. LEON JACOBS, JR.
LILA A. JABER



DIVISION OF APPEALS
DAVID SMITH
DIRECTOR
(850) 413-6245

Public Service Commission

April 13, 2000

Ms. Liz Cloud
Department of State
Bureau of Administrative Code
401 S. Monroe Street
Tallahassee, FL 32399-0250

Re: Rule 25-6.049, Measuring Customer Service

Dear Ms. Cloud:

Please add Sections 366.80, 366.81, and 366.82, Florida Statutes, to the Law Implemented Section of Rule 25-6.049, Florida Administrative Code.

Thank you for your assistance in making this technical change to Rule 25-6.049. Please call me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Mary Anne Helton".

Mary Anne Helton
Associate General Counsel

MAH

cc: James Beasley, Tampa Electric Company
Richard Bellak, Division of Appeals
Kenneth Hoffman, Florida Power & Light Company
James McGee, Florida Power Corporation
Sandy Moses, Division of Records and Reporting
Jon Moyle, Jr., Valencia Condominium Association
Matthew Sirmans, Joint Administrative Procedures Committee
Debra Swim, Legal Environmental Assistance Foundation
Wanda Terrell, Division of Appeals
David Wheeler, Division of Electric and Gas
Docket File for PSC Docket 981104-EU

The Law Offices of
**MOYLE
FLANIGAN
KATZ
KOLINS
RAYMOND
& SHEEHAN
P.A.**

**THE PERKINS HOUSE
118 NORTH GADSDEN STREET
TALLAHASSEE, FLORIDA 32301**

**TELEPHONE (850) 681-3828
FACSIMILE (850) 681-8788**

**WEST PALM BEACH
OFFICE
(561) 659-7500**

FAX TRANSMISSION COVER SHEET

To: Mary Ann Helton
Firm/Company: Public Service Commission
Fax Number: (850) 413-7180

Sender: Jon C. Molye, Jr.

Date: September 2, 1999

File Name:
File Number:

MESSAGE

Mary Ann as discussed.

Jon

**TOTAL NUMBER OF PAGES: 2 (Including Cover Sheet)
TELEPHONE NUMBER IN CASE OF TRANSMISSION ERROR: (850)681-3828**

PLEASE DELIVER IMMEDIATELY

THE INFORMATION CONTAINED IN THIS TRANSMISSION IS ATTORNEY/CLIENT PRIVILEGED AND CONFIDENTIAL. IT IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE COLLECT AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. WE WILL REIMBURSE YOU FOR EXPENSES. THANK YOU.

ENROLLED

1999 Legislature

CS/HB 107, First Engrossed

1 120.54 Rulemaking.--

2 (1) GENERAL PROVISIONS APPLICABLE TO ALL RULES OTHER
3 THAN EMERGENCY RULES.--

4 (f) An agency may adopt rules authorized by law and
5 necessary to the proper implementation of a statute prior to
6 the effective date of the statute, but the rules may not be
7 effective enforced until the statute upon which they are based
8 is effective. An agency may not adopt retroactive rules,
9 including retroactive rules intended to clarify existing law,
10 unless that power is expressly authorized by statute.

11 Section 5. Paragraph (a) of subsection (2) of section
12 120.56, Florida Statutes, is amended to read:

13 120.56 Challenges to rules.--

14 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.--

15 (a) Any substantially affected person may seek an
16 administrative determination of the invalidity of any proposed
17 rule by filing a petition seeking such a determination with
18 the division within 21 days after the date of publication of
19 the notice required by s. 120.54(3)(a), within 10 days after
20 the final public hearing is held on the proposed rule as
21 provided by s. 120.54(3)(c), within 20 days after the
22 preparation of a statement of estimated regulatory costs
23 required pursuant to s. 120.541, if applicable, or within 20
24 days after the date of publication of the notice required by
25 s. 120.54(3)(d). The petition shall state with particularity
26 the objections to the proposed rule and the reasons that the
27 proposed rule is an invalid exercise of delegated legislative
28 authority. The petitioner has the burden of going forward. The
29 agency then has the burden to prove by a preponderance of the
30 evidence that the proposed rule is not an invalid exercise of
31 delegated legislative authority as to the objections raised.

CODING: words ~~stricken~~ are deletions; words underlined are additions.

TONI JENNINGS
President



Senator Walter "Skip" Campbell, Chairman
Representative Bill Posey, Vice Chairman
Senator Ginny Brown-Waite
Senator Lisa Carlton
Representative O. R. "Rick" Minton, Jr.
Representative Adam H. Putnam

JOHN THRASHER
Speaker



THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

CARROLL WEBB, EXECUTIVE DIRECTOR
AND GENERAL COUNSEL
Room 120, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

January 6, 2000

Mr. Richard Bellak
Associate General Counsel
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0862

Re: Public Service Commission Rule No: 25-6.049

Dear Mr. Bellak:

According to our records, the above-styled rule was noticed in the Florida Administrative Weekly on **October 22, 1999**.

Paragraph 120.54(3)(e), F.S., requires that rules be filed for adoption not more than 90 days from the date of the original notice unless specified circumstances prevail. The 90-day period for filing the rules expires on **January 20, 2000**.

If you intend to adopt the rules, we remind you that paragraph 120.54(3)(d) F.S., requires that if the rules have not been changed since they were filed with the Committee, or if they contain only technical changes, you must file a notice to that effect with this Committee at least 7 days prior to filing the rules for adoption. If any change has been made in the rules, other than a technical change, you must publish a notice, and file a copy with the committee, at least 21 days prior to filing the rules for adoption.

If the rules are not filed within 90 days, and if an exception is not applicable, you must notice withdrawal of the rules. Any further action to adopt the rules must comply with the rulemaking procedures of s. 120.54, F.S. Please advise us of any exceptions which apply to the rules so that we may keep our records current.

Sincerely,

A handwritten signature in blue ink that reads "Carroll Webb".

Carroll Webb
Executive Director
and General Counsel

RECEIVED
00 JAN -7 PM 2:59
FLORIDA PUBLIC SERVICE COMM.
DIVISION OF APPEALS

MEMORANDUM

May 19, 1999

RECEIVED
99 MAY 19 PM 4:52
FLORIDA PUBLIC SERVICE
DIVISION OF APPEAL
CSH
RD
Amy

TO: DIVISION OF APPEALS (BELLAK)
FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (HEWITT)
SUBJECT: REVISED STATEMENT OF ESTIMATED REGULATORY COST FOR PROPOSED AMENDMENTS TO RULE 25-6.049(5)(a), F.A.C., MEASURING CUSTOMER SERVICE, DOCKET NO. 981104-EU

SUMMARY OF THE RULE

Currently, Rule 25-6.049, F.A.C., contains the requirements for metering customer consumption of electricity with certain exemptions for special uses and conditions. In particular, the rule requires individual meters for each separate occupancy unit in facilities for which construction began after January 1, 1981. The policy supporting the rule is that individual meters would encourage conservation.

The proposed rule amendment would clarify that the current rule allows only those facilities beginning construction prior to January 1, 1981, and built with master metering, to continue to have master metering. The implicit intent of the cutoff date was to require those buildings constructed after that date to install individual metering for each separate occupancy unit. The current rule was not intended to allow conversion to master metering in older buildings where individual unit metering is already installed. The Commission has been consistent with that policy over the years and reaffirmed it in Order No. PSC-98-0449-FOF-EI.

ESTIMATED NUMBER OF ENTITIES REQUIRED TO COMPLY AND GENERAL DESCRIPTION OF INDIVIDUALS AFFECTED

The five investor owned electric utilities (IOUs) are required to comply with Rule 25-6.049, F.A.C, Measuring Customer Service. Any customer receiving electric service from these entities is subject to the service conditions of complying IOUs. Because the proposed amendment clarifies an existing rule, no IOUs or individuals should be affected.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

The proposed rule amendment clarifies the existing policy and rule, and the Commission should not incur any additional implementation and enforcement costs. There also should be no impact on revenues of the agency or other government entities.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

There should be no transactional costs, because the proposed clarifying amendment would cause no material change in measuring customer service.

IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

There should be no cost to small businesses, cities or counties, because the proposed clarifying amendment would make no material change.

REASONABLE ALTERNATIVE METHODS AND LOWER COST REGULATORY ALTERNATIVES

The proposed clarifying amendment to the rule is necessary, because a misreading of the rule led to a switch of a condominium from individual unit metering at a residential rate to master metering with a commercial rate. Although it has been reported that this has reduced the monthly electric bills for these condominium customers, a complete cost/benefit study has not been performed.

Existing rates and tariffs have been developed to equitably share customer costs and energy costs among comparable rate classes. Allowing switching at will from individual metering at a residential rate to master metering at a commercial rate could shift costs from some ratepayers onto other ratepayers in a discriminatory manner. If there is a net benefit from lower customer service charges from combining multiple bills into one master bill, a tariff could be developed to allow that alternative, with energy charges paid at the appropriate residential rate.

One interested party proposed that a lower cost alternative would be to not adopt the proposed rule change. That proposed lower cost alternative is rejected because it does not have a lower cost. There are two reasons that this alternative is not a lower cost alternative: (1) with no rule change, the possibility of misreading the rule would continue with possible further hearings and litigation costs; and (2) additional conversions of condominiums from individual metering to master metering are not allowed under the existing rule and Order No. PSC-98-0449-FOF-EI unless one of the exceptions in the rule are met. Therefore, condominium dwelling customers would not be able to reduce their electric bills by conversion to a master meter in the absence of a rule change.

CBH:tf/e-mstmtr
cc: David Wheeler