

STATE OF FLORIDA

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



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

Public Service Commission

January 30, 2020

Jamie Jackson  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

via e-mail

RECEIVED-FPSC  
2020 JAN 30 PM 12:04  
COMMISSION  
CLERK

*DKT 20200000-07*

**Re: Existing Rule Review, Public Service Commission Rules 25-6.047, .054, .061, .062, .074, .075, .081, .082, and .104**

Dear Ms. Jackson:

By letter of March 12, 2019, you requested review of some of the Commission's rules in Chapter 25-6, F.A.C. In my June 28, 2019 response letter, I informed you that Commission staff had reviewed the rules and that some of the rules identified in your March 12, 2019 letter did not need amendment. For the other rules, which are referenced above, I informed you that Commission staff had determined that amendments either might be or were needed and that rulemaking would be initiated sometime in 2019 or early 2020. This letter is an update on our review of the above-referenced rules. Your March 12, 2019 comments and our updated response for each of the above-referenced rules are as follows:

**25-6.047:** Please review and advise whether updates are needed to this rule, which has not been amended since adoption in 1969.

**Response:** Commission staff has reviewed this rule and determined that this rule may be repealed as obsolete. Staff anticipates that rulemaking will be initiated in early 2020.

**25-6.054(4):** It is unclear from the rule text if there is a specific period in which the historical performance records referenced in this subsection must be maintained. Please advise if there is another relevant record retention rule applicable in this scenario. If not, it appears that this information should be included in the rule to ensure comprehension and compliance.

**Response:** Commission staff has reviewed this rule and determined that this rule needs to be amended to address the issue raised in your comments. Staff anticipates that rulemaking will be initiated in early 2020. A copy of the draft amended rule is attached.

**25-6.061:** Please review and advise whether updates are needed to this rule, which has not been amended since adoption in 1969.

**Response:** Commission staff has reviewed this rule and determined that this rule does not need to be amended.

**25-6.062:** Please review and advise whether updates are needed to this rule, which has not been amended since adoption in 1969.

**Response:** Upon further review of this rule, Commission staff made a technical change to the rule and determined that this rule does not need to be amended.

**25-6.074:** Please review and advise as to the necessity of this rule entitled, "Applicability," in light of the definition of a rule pursuant to section 120.52(16), Florida Statutes.

**Response:** Commission staff has reviewed this rule and determined that this rule may be amended to delete unnecessary and obsolete language. Staff anticipates that rulemaking will be initiated in early 2020. A copy of the draft rule is attached.

**25-6.075:** It is unclear how this rule's language specifically implements section 366.03, Florida Statutes, which is cited as the sole law implemented by its content. Please review and revise as necessary.

**Response:** Sections 366.04(6); 366.041(1) and (4); 366.04(1), (2)(f), (4); 366.05(1); and 366.06(1), F.S., have been added to the Law Implemented section, and section 350.127(2), F.S., has been added to the Rulemaking Authority section. Commission staff has reviewed this rule and determined that it does not need to be amended because the applicable law implemented is now identified.

**25-6.081:** Please review and advise as to the necessity of this rule entitled, "Construction Practices," in light of the definition of a rule pursuant to section 120.52(16), Florida Statutes. It is unclear how this rule's language specifically implements the cited statute, as it appears to contain undefined goals without setting forth definitions, standards, or how compliance is to be determined. See § 120.52(8)(d), Fla. Stat. (2018).

**Response:** Commission staff has reviewed this rule and determined that it may be repealed as obsolete. As stated in my June 28, 2019 letter to you, this rule was included in a Notice of Development of Rulemaking published in the June 7, 2019, edition of the Florida Administrative Register. Commission staff plans to bring this rule to the Commission for proposed repeal at the same time as the other five rules identified for repeal or amendment in this letter.

Ms. Jamie Jackson  
January 30, 2020  
Page 3

**25-6.082:** It is unclear from the rule text if there is a specific period in which the records referenced in subsections (1) and (2) of this rule must be maintained. Please advise if there is another relevant record retention rule applicable in this scenario. If not, it appears that this information should be included in the rule to ensure comprehension and compliance.

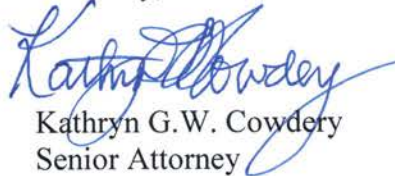
**Response:** Commission staff has reviewed this rule and determined that this rule may be repealed as obsolete. Staff anticipates that rulemaking will be initiated in early 2020.

**25-6.104:** It is unclear from the rule how the Commission would determine whether an estimated charge is “reasonable” for the situation set forth in this rule. *See* § 120.52(8)(d), Fla. Stat. (2018). Please review and advise.

**Response:** Commission staff has reviewed this rule and determined that this rule needs to be amended to address your comments. Staff anticipates that rulemaking will be initiated in early 2020. A copy of the draft amended rule is attached.

Please contact me at 850-413-6216 or [kcowdery@psc.state.fl.us](mailto:kcowdery@psc.state.fl.us) if you have any questions or concerns. Thank you.

Sincerely,

  
Kathryn G.W. Cowdery  
Senior Attorney

KGWC  
Cc: Commission Clerk

1       **25-6.054 Laboratory Standards.**

2       (1) Each utility shall have available one or more watt-hour meters to be used as basic  
3 reference standards. The watt-hour meters must have an adequate capacity and voltage range to  
4 test all portable standards used by the utility and must meet the requirements described in  
5 subsection 25-6.055(1), F.A.C.

6       (a) Watt-hour meters used as basic reference standards shall not be in error by more than  
7 plus or minus 0.05 percent at 1.00 power factor or by more than 0.10 percent at 0.50 power  
8 factor. Watt-hour meters shall not be used to check or calibrate portable standard watt-hour  
9 meters unless the basic reference standard watt-hour meter has been checked and adjusted, if  
10 necessary, to the prescribed accuracy within the preceding twelve months.

11       (b) The percent registration of each basic reference standard watt-hour meter shall be  
12 compared with the percent registration of all other basic reference standard watt-hour meters  
13 used by the utility.

14       (2) Each utility shall establish traceability of its watt-hour standard to the national standards  
15 at least annually using one of the following methods:

16       (a) Through the Measurement Assurance Program (MAP) in which the National Institute  
17 of Standards and Technology (NIST) has provided a transport standard; or

18       (b) Through a transport standard which is of the same nominal value and of quality equal  
19 to the basic reference standards that are sent to NIST or to an independent laboratory approved  
20 by the Commission.

21       (3) If error exceeding that referenced in paragraph 25-6.054(1)(a), F.A.C., in the percent  
22 registration of a watt-hour meter used as a basic reference standard is observed in the  
23 comparisons in paragraph 25-6.054(2)(b), F.A.C., the utility shall investigate the source of the  
24 error. If the cause of the error cannot be corrected, use of the watt-hour meter as a basic  
25 reference standard shall be discontinued.

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(4) Each utility shall maintain the following historical performance records for each wathour meter used as a basic reference standard until the meter is no longer in use for the following types of comparisons:

- (a) Comparisons of basic reference standards with national standards; and
- (b) Intercomparisons made with other basic reference standards.

*Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.05(1) FS. History—  
New 7-29-69, Amended 4-13-80, 5-13-85, Formerly 25-6.54, Amended 5-19-97,*

\_\_\_\_\_.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**25-6.074 Applicability.**

~~(1) Extensions of electric distribution lines applied for after the effective date of these rules, and necessary to furnish permanent electric service to all structures within a new residential subdivision, or to new multiple-occupancy buildings, shall be made underground when requested by an applicant or required by governmental authority.~~

~~(2) Such extensions of service shall be made by the utility in accordance with the provisions in these rules.~~

*Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.03 FS. History—New 4-10-71, Formerly 25-6.74, Amended \_\_\_\_\_.*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**25-6.104 Unauthorized Use of Energy.**

In the event of unauthorized or fraudulent use, or meter tampering, the utility may bill the customer for the time period at issue using an on-a-reasonable estimate of the energy used based upon factors such as approximate size of the residence or building, the types of appliances using electricity, use of air conditioning, and the number of occupants.

*Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.03, 366.05(1) FS.  
History—New 7-29-69, Amended 4-13-80, 5-3-82, 11-21-82, \_\_\_\_\_.*