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STATE OF FLORIDA



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

Public Service Commission

July 16, 2020

Mr. Ernest Reddick
Florida Department of State
Administrative Code and Register Section
Room 701, the Capitol
Tallahassee, FL 32399-0250
AdministrativeCode@dos.myflorida.com

VIA EMAIL AND US MAIL

FILED
2020 JUL 16 AM 11:39
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

Re: Rule Certification Packet for Rules 25-6.0440, Territorial Agreements for Electric Utilities, and 25-6.0441, Territorial Disputes for Electric Utilities, F.A.C.

Dear Mr. Reddick:

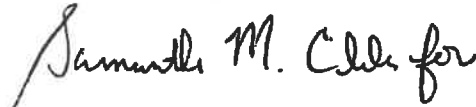
Enclosed for filing is a complete rule certification packet for Rules 25-6.0440 and 25-6.0441, F.A.C., consisting of:

- (1) One copy of the coded text of the rule in Word version sent as an email attachment;
- (2) There are no materials incorporated by reference into these rules;
- (3) One copy of the signed rule certification form;
- (4) One copy of the signed designation of minor violation rule certification form required by Rule 1-1.010, F.A.C.;
- (5) One copy of the coded text of the rules, including the legal citations and history notes;
- (6) One copy of the summary of the rules;
- (7) One copy of the detailed written statement of the facts and circumstances justifying the rules; and
- (8) One copy of the summary of the hearings held on the rules.

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Ernest Reddick
July 16, 2020

Please let me know if you have any questions. The contact name and information for this rule are Kathryn G. W. Cowdery, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6216, kcowdery@psc.state.fl.us.

Sincerely,



Kathryn G. W. Cowdery
Senior Attorney

Enclosures

cc: Office of the Commission Clerk (Docket No. 20200094-EU)

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

FILED
2020 JUL 16 AM 11:39
OFFICE OF THE CLERK OF THE
SUPREME COURT OF FLORIDA
TALLAHASSEE, FLORIDA

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached is each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.


Rule Nos.

25-6.0440

25-6.0441

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective Date: _____



Person Authorized to Certify Rules

Commission Clerk
Title _____

Number of Pages Certified 2

**DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION
CERTIFICATION**

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule Nos.

25-6.0440

25-6.0441

Rules covered by this certification:

Rule Nos.

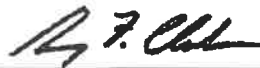
25-6.0440

25-6.0441

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

2020 JUL 16 AM 11:39

FILED



Signature of Agency Head

Chairman, Florida Public Service Commission
Title

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2020 JUL 1 AM 11:39
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

25-6.0440 Territorial Agreements for Electric Utilities.

(1) All territorial agreements between electric utilities must shall be submitted to the Commission for approval. Each territorial agreement must shall clearly identify the geographical area to be served by each utility. The submission must shall include:

- (a) A map and a written description of the area,
- (b) The terms and conditions pertaining to implementation of the agreement, and any other terms and conditions pertaining to the agreement,
- (c) The number and class of customers to be transferred,
- (d) Assurance that the affected customers have been contacted and the difference in rates explained,
- (e) Information with respect to the degree of acceptance by affected customers, i.e., the number in favor of and those opposed to the transfer, and
- (f) An official Florida Department of Transportation (DOT) General Highway County map for each affected county depicting boundary lines established by the territorial agreement. Upon approval of the agreement, any modification, changes, or corrections to this agreement must be approved by this Commission.

(2) Standards for Approval. In approving territorial agreements, the Commission may consider, ~~but not be limited to consideration of:~~

- (a) The reasonableness of the purchase price of any facilities being transferred;
- (b) The reasonable likelihood that the agreement, in and of itself, will not cause a decrease in the reliability of electrical service to the existing or future ratepayers of any utility party to the agreement; and
- (c) The reasonable likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities; and-
- (d) Any other factor the Commission finds relevant in reaching a determination that the territorial agreement is in the public interest.

(3) The Commission may require additional relevant information from the parties of the agreement, if so warranted.

Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2), (4), (5), 366.05(7) FS. History—New 3-4-90, Amended 2-13-96, _____.

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2020 JUL 16 AM 11:09
TALLAHASSEE, FLORIDA

25-6.0441 Territorial Disputes for Electric Utilities.

(1) A territorial dispute proceeding may be initiated by a petition from an electric utility requesting the Commission to resolve the dispute. Additionally the Commission may, on its own motion, identify the existence of a dispute and order the affected parties to participate in a proceeding to resolve it. Each utility ~~that~~ which is a party to a territorial dispute ~~must shall~~ provide a map and a written description of the disputed area along with the conditions that caused the dispute. Each utility party ~~must shall~~ also provide a description of the existing and planned load to be served in the area of dispute and a description of the type, additional cost, and reliability of electrical facilities and other utility services to be provided within the disputed area.

(2) In resolving territorial disputes, the Commission may consider, in addition to the factors listed in Section 366.04(2)(e), F.S.: ~~but not be limited to consideration of:~~

(a) The capability of each utility to provide reliable electric service within the disputed area with its existing facilities and the extent to which additional facilities are needed;

(b) The nature of the disputed area, including population and the type of utilities seeking to serve it, ~~the~~ and degree of urbanization of the area and its proximity to other urban areas, and the present and reasonably foreseeable future requirements of the area for other utility services;

(c) The cost of each utility to provide distribution and subtransmission facilities to the disputed area presently and in the future; ~~and~~

(d) Any other factor the Commission finds relevant in reaching a determination that the resolution of the territorial dispute is in the public interest; and

(e) ~~(d) If all other factors are substantially equal, customer~~ Customer preference if all other factors are substantially equal.

(3) The Commission may require additional relevant information from the parties of the dispute, if so warranted.

(4) Upon resolution of each territorial dispute, the parties to the dispute ~~must shall~~ submit to the Commission an official Florida Department of Transportation (DOT) General Highway County map for each affected county depicting boundary lines established by the resolution of the territorial dispute.

Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2), (4), (5), 366.05(7) FS. History—New 3-4-90, Amended 2-13-96, _____.

SUMMARY OF THE RULES

These rules list factors the Commission may consider in ruling on territorial agreements and territorial disputes. Rule language in both rules that allowed the Commission to consider factors "not limited to" the listed factors has been deleted and replaced with language allowing the Commission to consider any other factor relevant in reaching a determination that the resolution of the territorial dispute or the approval of the territorial agreement is in the public interest. Amendments were also made to update and clarify the rules.

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Rules 25-6.0440 and 25-6.0441, F.A.C., implement the Commission's authority under Section 366.04(2), F.S., to approve territorial agreements and resolve territorial disputes for electric utilities. In response to a concern raised by staff of the Joint Administrative Procedures Committee, the Commission has eliminated rule language stating that the Commission's review in these matters was "not limited to" a listing of certain factors. The rules were amended to provide that the Commission may consider any other factor the Commission finds relevant in reaching a determination that the resolution of the territorial dispute or the approval of the territorial agreement is in the public interest. Amendments were also made to update and clarify the rules.

SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.

FILED
2000 JUL 16 AM 11:39
OFFICE OF THE CLERK OF THE
TALLAHASSEE, FLORIDA



THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**



Senator Linda Stewart, Chair
Representative Erin Grall, Vice Chair
Senator Janet Cruz
Senator Ed Hooper
Senator Keith Perry
Senator Tom A. Wright
Representative Vance Arthur Aloupis, Jr.
Representative Tommy Gregory
Representative Cindy Polo
Representative Holly Raschein
Representative Jason Shoaf
Representative Clovis Watson, Jr.

KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
apc@leg.state.fl.us

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA
2020 JUL 16 AM 11:39
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CERTIFICATION

Department: Public Service Commission
Agency:
Rule No(s): 25-6.0440, .0441
File Control No: 182022

As required by subparagraph 120.54(3)(e)4 F.S., the Joint Administrative Procedures Committee hereby certify that:

- There were no material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rule; or
- The adopting agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rules; or
- The adopting agency has not responded in writing to all material and timely written comments or written inquiries made on behalf of the Committee regarding the above listed rules.

Certification Date: 7/16/2020

This certification expires after: 7/23/2020

Certifying Attorney: Jamie Jackson

NOTE:

- The above certified rules include materials incorporated by reference.*
- The above certified rules do not include materials incorporated by reference.*

From: [Grosenbaugh, Anya C.](#)
To: [Julie Phillips](#)
Cc: [Reddick, Ernest L.](#)
Subject: RE: Rule Certification packet, Rules 25-6.0440 and 25-6.0441, F.A.C.
Date: Thursday, July 16, 2020 12:04:31 PM
Attachments: [25-6.0440_.0441.pdf](#)

Good afternoon,

I am attaching the filed copy of rules 25-6.0440 and .0441 for your records.

Best,

Anya Grosenbaugh

Government Operations Consultant III
Florida Administrative Code and Register
Room 701, The Capitol | Tallahassee, Florida
850.245.6271

From: Administrative Code <AdministrativeCode@DOS.MyFlorida.com>
Sent: Thursday, July 16, 2020 10:20 AM
To: Grosenbaugh, Anya C. <Anya.Grosenbaugh@dos.myflorida.com>
Subject: FW: Rule Certification packet, Rules 25-6.0440 and 25-6.0441, F.A.C.

FYI

From: Julie Phillips <JPhillip@PSC.STATE.FL.US>
Sent: Thursday, July 16, 2020 9:31 AM
To: Administrative Code <AdministrativeCode@DOS.MyFlorida.com>
Cc: Kathryn Cowdery <kcowdery@psc.state.fl.us>; Julie Phillips <JPhillip@PSC.STATE.FL.US>
Subject: Rule Certification packet, Rules 25-6.0440 and 25-6.0441, F.A.C.

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

The Rule Certification Packet for Rules 25-6.0440 and 25-6.0441, F.A.C., with attachments of the PDF for the entire packet, along with Word versions for the coded text of the rules.

We await your confirmation email.

Thank you.

Julie Phillips

Office of the General Counsel
Florida Public Service Commission
850.413.6084