

STATE OF FLORIDA

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

# Public Service Commission

November 4, 2021

Kenneth J. Plante, Coordinator  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400  
japc@leg.state.fl.us

VIA EMAIL

**Re: Docket No. 20210137-PU; Rule 25-18.010, F.A.C., Pole Attachment Complaints**

Dear Mr. Plante:

Enclosed are the following materials concerning the above referenced proposed rule:

1. A copy of the proposed rule.
2. There are no materials incorporated by reference in the proposed rule.
3. A copy of the F.A.R. notice.
4. A statement of facts and circumstances justifying the proposed rule.
5. A federal standards statement.
6. A Statement of Estimated Regulatory Costs was not prepared for this rule because it is not subject to Section 120.541, F.S., pursuant to Section 120.80(13)(g), F.S.

RECEIVED-PPSC  
2021 NOV -5 AM 11:08  
COMMISSION  
CLERK

Mr. Kenneth J. Plante  
November 4, 2021  
Page 2

If there are any questions with respect to these rules, please do not hesitate to contact me at [kcowdery@psc.state.fl.us](mailto:kcowdery@psc.state.fl.us).

Sincerely,

  
Kathryn G. W. Cowdery  
Senior Attorney

Enclosures

cc: Office of Commission Clerk

1        25-18.010 Pole Attachment Complaints

2        (1) A complaint filed with the Commission by a pole owner or attaching entity pursuant to  
3 Section 366.04(8), F.S., must contain:

4        (a) The name, address, email address, and telephone number of the complainant or  
5 complainant’s attorney or qualified representative;

6        (b) A statement describing the facts that give rise to the complaint;

7        (c) Names of the party or parties against whom the complaint is filed;

8        (d) A copy of the pole attachment agreement, if applicable, and identification of the pole  
9 attachment rates, charges, terms, conditions, voluntary agreements, or any denial of access  
10 relative to pole attachments that is the subject matter of the complaint;

11        (e) A statement of the disputed issues of material fact or a statement that there are no  
12 disputed issues of material fact;

13        (f) If the complaint requires the Commission to establish just and reasonable cost-based  
14 rates, terms, and conditions for pole attachments, the complaint must contain an explanation of  
15 the methodology the complainant is requesting the Commission to apply;

16        (g) If the complaint involves a dispute regarding rates or billing, a statement of the dollar  
17 amount in dispute, the dollar amount not in dispute, whether the amount not in dispute has  
18 been paid to the pole owner, and if not paid the reasons why not;

19        (h) A statement of the relief requested, including whether a Section 120.569 and 120.57,  
20 F.S., evidentiary hearing is being requested to resolve the complaint; and

21        (i) A certificate of service that copies of the complaint have been furnished by email to the  
22 party or parties identified in paragraph (1)(c) of this rule.

23        (2) The filing date for the complaint is the date that a complaint is filed with the  
24 Commission Clerk containing all required information set forth in subsection (1) of this rule.

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

1       (3) The pole owner or attaching entity that is the subject of the complaint may file a  
2 response to the complaint. The response must be filed with the Commission Clerk within 30  
3 calendar days of the date the complaint was served on the respondent, unless the Prehearing  
4 Officer grants a motion for extension of time filed pursuant to Rule 28-106.204, F.A.C., or  
5 Rule 28-106.303, F.A.C., as appropriate.

6       (4) A response filed under subsection (3) of this rule must include the following:

7       (a) A statement of whether a Section 120.569 and 120.57, F.S., evidentiary hearing is  
8 being requested to resolve the complaint; and

9       (b) If the complaint requires the Commission to establish just and reasonable cost-based  
10 rates, terms, and conditions for pole attachments, the response must contain an explanation of  
11 the methodology the respondent is requesting the Commission to apply.

12       (5) The Commission will take final action on a complaint concerning rates, charges, terms,  
13 conditions, and voluntary agreements relative to pole attachments at a Commission  
14 Conference no later than 360 days after the complaint's filing date as set forth in subsection  
15 (2) of this rule.

16       (6) The Commission will take final action on a complaint limited to denial of access  
17 relative to pole attachments at a Commission Conference no later than 180 days after the  
18 complaint's filing date as established under subsection (2) of this rule.

19 *Rulemaking Authority 350.127(2), 366.04(8)(g) FS. Law Implemented 366.04(8) FS. History-*  
20 *New \_\_\_\_\_*

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23  
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CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.



Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE

25-18.010: Pole Attachment Complaints

PURPOSE AND EFFECT: This is a procedural rule proposed to administer and implement Section 366.04(8), FS, which requires the Florida Public Service Commission to regulate and enforce rates, charges, terms, and conditions for pole attachments.

Docket No. 20210137-PU

SUMMARY: Rule 25-18.010 gives the information that must be included in a complaint filed with the Commission by a pole owner or attaching entity pursuant to s. 366.04(8), FS; establishes the filing date for a complaint; gives requirements concerning responses filed to a complaint; and establishes time deadlines for Commission final action on complaints filed pursuant to Section 366.04(8), FS

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: 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: A SERC was not prepared and ratification is not required pursuant to the exemption in Section 120.80(13)(g), F.S.

RULEMAKING AUTHORITY: 350.127(2), 366.04(8)(g) FS.

LAW IMPLEMENTED: 366.04(8) 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, kgcowdery@psc.state.fl.us, (850)413-6199, or Adria Harper, aharper@psc.state.fl.us, (850) 413-6082, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850

THE FULL TEXT OF THE PROPOSED RULE IS:

25-18.010 Pole Attachment Complaints

(1) A complaint filed with the Commission by a pole owner or attaching entity pursuant to Section 366.04(8), F.S., must contain:

(a) The name, address, email address, and telephone number of the complainant or complainant's attorney or qualified representative;

(b) A statement describing the facts that give rise to the complaint;

(c) Names of the party or parties against whom the complaint is filed;

(d) A copy of the pole attachment agreement, if applicable, and identification of the pole attachment rates, charges, terms, conditions, voluntary agreements, or any denial of access relative to pole attachments that is the subject matter of the complaint;

(e) A statement of the disputed issues of material fact or a statement that there are no disputed issues of material fact;

(f) If the complaint requires the Commission to establish just and reasonable cost-based rates, terms, and conditions for pole attachments, the complaint must contain an explanation of the methodology the complainant is requesting the Commission to apply;

(g) If the complaint involves a dispute regarding rates or billing, a statement of the dollar amount in dispute, the dollar amount not in dispute, whether the amount not in dispute has been paid to the pole owner, and if not paid the reasons why not;

(h) A statement of the relief requested, including whether a Section 120.569 and 120.57, F.S., evidentiary hearing is being requested to resolve the complaint; and

(i) A certificate of service that copies of the complaint have been furnished by email to the party or parties identified in paragraph (1)(c) of this rule.

(2) The filing date for the complaint is the date that a complaint is filed with the Commission Clerk containing all required information set forth in subsection (1) of this rule.

(3) The pole owner or attaching entity that is the subject of the complaint may file a response to the complaint. The response must be filed with the Commission Clerk within 30 calendar days of the date the complaint was served on the respondent, unless the Prehearing Officer grants a motion for extension of time filed pursuant to Rule 28-106.204, F.A.C., or Rule 28-106.303, F.A.C., as appropriate.

(4) A response filed under subsection (3) of this rule must include the following:

(a) A statement of whether a Section 120.569 and 120.57, F.S., evidentiary hearing is being requested to resolve the complaint; and

(b) If the complaint requires the Commission to establish just and reasonable cost-based rates, terms, and conditions for pole attachments, the response must contain an explanation of the methodology the respondent is requesting the Commission to apply.

(5) The Commission will take final action on a complaint concerning rates, charges, terms, conditions, and voluntary agreements relative to pole attachments at a Commission Conference no later than 360 days after the complaint's filing date as set forth in subsection (2) of this rule.

(6) The Commission will take final action on a complaint limited to denial of access relative to pole attachments at a Commission Conference no later than 180 days after the complaint's filing date as established under subsection (2) of this rule.

Rulemaking Authority 350.127(2), 366.04(8)(g) FS. Law Implemented 366.04(8) FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Brandon Wendell

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 2, 2021

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 47, Number 159, August 17, 2021.

STATEMENT OF FACTS AND CIRCUMSTANCES  
JUSTIFYING RULE

Section 366.04(8)(g), F.S., requires the Florida Public Service Commission to propose procedural rules to administer and implement subsection 366.04(8), F.S., no later than January 1, 2022. Rule 25-18.010, F.A.C., establishes the procedure to administer and implement subsection 366.04(8), F.S., by listing the information that must be included in a complaint filed with the Commission under subsection 366.04(8), F.S.; establishing the filing date for a complaint; giving the requirements concerning responses filed to a complaint; and establishing time deadlines for Commission final action on pole attachment complaints.

STATEMENT ON FEDERAL STANDARDS

There are no federal standards for this rule.

## Julie Phillips

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**From:** Jackson, Jamie <JACKSON.JAMIE@leg.state.fl.us>  
**Sent:** Friday, November 05, 2021 10:42 AM  
**To:** Kathryn Cowdery; Joint Administrative Procedures Committee  
**Cc:** Julie Phillips  
**Subject:** RE: FPSC Dkt 20210137 - Proposed Rule 25-18.010, Pole Attachment Complaints

Hello Kathryn,

We are in receipt of the rule packet submitted yesterday on 11/04/21. Thank you!

Jamie

**Jamie L. Jackson**  
Chief Attorney, Joint Administrative Procedures Committee  
The Florida Legislature  
680 Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1400  
Phone: (850) 488-9110  
Fax: (850) 922-6934

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**From:** Kathryn Cowdery <kcowdery@PSC.STATE.FL.US>  
**Sent:** Friday, November 05, 2021 10:41 AM  
**To:** Joint Administrative Procedures Committee <japc@leg.state.fl.us>  
**Cc:** Julie Phillips <JPhillip@PSC.STATE.FL.US>; Jackson, Jamie <JACKSON.JAMIE@leg.state.fl.us>  
**Subject:** FW: FPSC Dkt 20210137 - Proposed Rule 25-18.010, Pole Attachment Complaints

Good morning – For our records, could you please confirm that you received this information yesterday?

Thank you very much.

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**From:** Kathryn Cowdery  
**Sent:** Thursday, November 04, 2021 12:16 PM  
**To:** [japc@leg.state.fl.us](mailto:japc@leg.state.fl.us)  
**Cc:** Jackson, Jamie ([JACKSON.JAMIE@leg.state.fl.us](mailto:JACKSON.JAMIE@leg.state.fl.us)) <[JACKSON.JAMIE@leg.state.fl.us](mailto:JACKSON.JAMIE@leg.state.fl.us)>; Julie Phillips <[JPhillip@PSC.STATE.FL.US](mailto:JPhillip@PSC.STATE.FL.US)>  
**Subject:** FPSC Dkt 20210137 - Proposed Rule 25-18.010, Pole Attachment Complaints

Good morning:

Attached pursuant to Section 120.54(3)(a)4., F.S., is the information required to be provided to JAPC for proposed Rule 25-18.010, F.A.C., Pole Attachment Complaints.

Please confirm your receipt of this e-mail by Reply All.

Thank you.



Kathryn Cowdery  
Senior Attorney  
Florida Public Service Commission