

STATE OF FLORIDA

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

Public Service Commission

March 3, 2022

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

SENT
VIA E-MAIL

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

Dear Mr. Plante:

Enclosed is the notice of change that was published in the Florida Administrative Register on March 3, 2022, and the statement of changes for proposed Rule 25-18.010, F.A.C.

We plan to file the rule for adoption on March 24, 2022.

Sincerely,

/s/ Kathryn G.W. Cowdery
Kathryn G.W. Cowdery
Senior Attorney

RECEIVED-FPSC
2022 MAR -4 PM 2: 02
COMMISSION
CLERK

Enclosure
cc: Office of Commission Clerk

STATEMENT OF CHANGES

The Commission published its Notice of Proposed Rulemaking in Volume 47, No. 215, of the November 4, 2021, issue of the Florida Administrative Register (F.A.R.). A Joint Request for a Hearing and Separate Proceeding on Proposed Rule 25-18.010, F.A.C., was filed with the Commission on November 29, 2021. The hearing requested that changes be made to paragraphs (1)(f) and (4)(b) of the proposed Rule. These paragraphs contain requirements for information that must be submitted with a complaint filed pursuant to Section 366.04(8), F.S., and response to a complaint, respectively.

Pursuant to notice published in Volume 48, No. 16, of the January 25, 2022 issue of the F.A.R., a section 120.54(3)(c)1., F.S., public hearing was held on the proposed rule on February 1, 2022. The Commission heard comments from interested persons on whether changes should be made to the proposed rule. The Commission published a notice of public hearing in Volume 48, No. 30, of the February 14, 2022 issue of the F.A.R. A section 120.54(3)(c)1., F.S., public hearing was held on the proposed rule on March 1, 2022. The Commission heard comments from interested persons and voted to make changes to paragraphs (1)(f) and (4)(b) of proposed Rule 25-18.010, F.A.C., as set forth in the attached Notice of Change.

The rule as proposed required the complaint and response to include an explanation of the methodology the complainant or respondent requests the Commission to apply for the establishment of rates, terms and conditions for pole attachments. The changes provide more detail and specificity as to what information must be filed with the Commission by requiring the complainant or respondent to specify any FCC rules, decisions, orders, or appellate decisions being relied upon, or, if an alternative cost-based rate is requested, the response or complaint must explain how the alternative cost-based rate is just and reasonable and in the public interest.

Notice of Change/Withdrawal

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-18.010 Pole Attachment Complaints

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published on November 4, 2021, in Volume 47, No. 215, of the Florida Administrative Register.

Docket No. 20210137-PU

The changes are in response to the Joint Request for a Hearing and Separate Proceeding on Proposed Rule 25-18.010, F.A.C., and discussion and subsequent vote by the Florida Public Service Commission at public hearings held on February 1, 2022 and on March 1, 2022. The changes are as follows:

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) through (e), No change.

~~(f) If the complaint requests the establishment of rates, charges, terms, or conditions for pole attachments and the complainant proposes the application of rates, terms, or conditions that are based upon Federal Communications Commission (FCC) rules, decisions, orders, or appellate decisions, the complainant must identify the specific applicable FCC rules, decisions, orders, or appellate decisions that the Commission should apply pursuant to Section 366.04(8)(e), F.S.; provided, however, that if the complainant requests an alternative cost-based rate, the complainant must identify the methodology and explain how the alternative cost-based rate is just and reasonable and in the public interest; 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) through (i), No change.

(2) through (3), No change.

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

(a) No change.

~~(b) If the complaint requests the establishment of rates, charges, terms, or conditions for pole attachments and the respondent proposes the application of rates, terms, or conditions that are based upon FCC rules, decisions, orders, or appellate decisions, the respondent must identify the specific applicable FCC rules, decisions, orders, or appellate decisions that the Commission should apply pursuant to Section 366.04(8)(e), F.S.; provided, however, that if the respondent requests an alternative cost-based rate, the respondent must identify the methodology and explain how the alternative cost-based rate is just and reasonable and in the public interest. 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) through (6), No change.

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

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, kcowdery@psc.state.fl.us, (850)413-6216.