

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: May 20, 2026

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Sapoznikoff) *SMC*
Office of Consumer Affairs (Kendrick) *AK*

RE: Docket No. 20260072-OT – Petition to initiate rulemaking to require all Florida-licensed utilities to provide immediate live-agent access in automated telephone and artificial intelligence customer service systems, by Kerry Lutz.

AGENDA: 06/02/26 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Clark

CRITICAL DATES: 06/05/26 (Statutory deadline pursuant to Section 120.54(7), F.S., waived until this date)

SPECIAL INSTRUCTIONS: None

Case Background

On April 27, 2026, Kerry Lutz (Petitioner) filed a Petition for Rulemaking to Require All Florida-Licensed Utilities to Provide Immediate Live-Agent Access in Automated Telephone and Artificial Intelligence Customer Service Systems (Petition). The Petition requests that the Commission initiate rulemaking pursuant to Section 120.54(7), Florida Statutes (F.S.), to adopt a new rule. Petitioner requests that this new rule require “all utilities licensed to do business in the State of Florida — including electric, gas, water, wastewater, and telecommunications utilities — to provide an immediate live-agent bypass option in all automated telephone menus and artificial intelligence customer-service systems.”

Pursuant to Section 120.54(7)(a), F.S., any person regulated by an agency or having a substantial interest in an agency rule may petition an agency to adopt, amend, or repeal a rule. In accordance with Section 120.54(7)(a), F.S., Petitioner alleges he has a substantial interest in an agency rule and the Petition specifies the proposed rule and action requested.

Procedural Matters

Section 120.54(7)(a), F.S., requires that within 30 calendar days of the filing of a petition to initiate rulemaking, the Commission must either initiate rulemaking or deny the petition with a written statement of its reasons for the denial. However, Petitioner agreed to waive the 30 day deadline in Section 120.54(7)(a), F.S., until June 5, 2026, and allow the Commission to consider the Petition at the June 2, 2026, Agenda Conference.

This recommendation addresses whether the Commission should initiate rulemaking or deny the Petition. This recommendation does not address the merits of the Petitioner's suggested rule, or whether it satisfies the requirements of Section 120.52 and 120.54, F.S. The Commission has jurisdiction pursuant to Section 120.54, 350.127(2), 366.05(1), and 367.121, F.S.

Discussion of Issues

Issue 1: Should the Commission grant the “Petition for Rulemaking to Require All Florida-Licensed Utilities to Provide Immediate Live-Agent Access in Automated Telephone and Artificial Intelligence Customer Service Systems” (Petition)?

Recommendation: No. The Commission should deny the Petition. (Sapoznikoff, Kendrick)

Staff Analysis: Below is a discussion of the rule language requested by the Petitioner, his stated reasons for filing the Petition, and staff’s analysis.

The Requested Rule Language

The Petition requests that the Commission adopt the following rule language:

Any utility regulated by or licensed through the Florida Public Service Commission that utilizes an automated telephone menu system, interactive voice response system, or artificial intelligence assistant for customer service purposes shall:

(a) Provide a clear, audible, and conspicuous option for the caller to be transferred immediately to a live human representative. This option must be presented within the first sixty (60) seconds of any automated interaction;

(b) Honor the selection of the digit ‘0’ or the spoken word ‘agent,’ ‘representative,’ or ‘human’ at any point during the automated interaction as a command to route the caller to a live-agent queue, without further automated interrogation;

(c) Not require a customer to complete automated screening, disclose account credentials, or submit to biometric or AI-driven identification as a precondition to live-agent access;

(d) Post estimated live-agent wait times within thirty (30) seconds of queue placement; and

(e) Maintain records of monthly average live-agent wait times and call abandonment rates, which shall be reported to the Commission quarterly and made available for public inspection.

The Petition

Petitioner states that he is a Florida resident and ratepayer of Commission-regulated utilities. He alleges:

The proliferation of automated telephone trees and AI-gated customer service systems – deployed by virtually every utility licensed to operate in Florida – has created systemic barriers that prevent ratepayers from: (a) reporting safety emergencies in real time; (b) disputing erroneous billing charges; (c) requesting

service disconnection deferrals under hardship; and (d) accessing basic account services without surrendering personal data to third-party artificial intelligence platforms. These barriers constitute a failure of adequate and efficient service within the meaning of Chapters 364, 366, and 367, Florida Statutes.

The Petition states that the Commission has the “authority under Sections 364.01, 366.04, 366.05, 367.111, and related provisions of Florida law to adopt and enforce customer service quality standards,” and that the draft rule he provides in his petition “falls squarely within the Commission’s existing jurisdiction and requires no additional legislative authorization.” In support of his petition, he states that the Commission has a statutory mandate under Chapters 364, 366, and 367, Florida Statutes, to ensure that the services Florida utilities supply are provided “adequately” and “efficiently” and that “[s]ervice that is inaccessible by human telephone contact during an emergency is, by definition, neither adequate nor efficient.”

Petitioner claims that current automated systems are “frequently engineered to discourage live-agent contact rather than facilitate it, creating ‘infinite loop’ architectures that exhaust callers.” He states that “[i]ndustry evidence and ratepayer experience confirm that current automated systems are architecturally optimized to minimize live-agent call volume – a cost-reduction strategy implemented at the direct expense of service quality and customer protection.” He alleges that “[s]enior citizens, persons with disabilities, non-English-speaking ratepayers, and those in crisis situations are systemically disadvantaged by AI-generated service architectures.”

The Petition also states that “AI-driven customer service systems collect, process, and retain biometric voice data, call metadata, and behavioral patterns.” He asserts that “[c]onditioning live-agent access on submission to such systems imposes an uncompensated data-extraction toll on ratepayers as a condition of receiving services they have already paid for” and that “[t]his practice implicates the Florida Digital Bill of Rights.”

Petitioner asserts that the Commission’s existing rules do not address the concerns set forth in the Petition. He states that the “regulatory gap has grown significantly as utilities have accelerated AI-driven automation of customer contact,” and that “[r]ulemaking is the appropriate vehicle to close the gap prospectively and uniformly across all regulated entities.”

Analysis:

Staff recommends that the Commission deny the Petition for the following reasons. First, staff notes the Petition alleges that under Chapter 364, F.S., the Commission has the authority to regulate telecommunications companies in the manner requested in the Petition. This is incorrect. Chapter 364, F.S., does not grant the Commission the authority to regulate the quality of service of telecommunications companies. Thus, the Commission cannot adopt a rule, such as is requested in the Petition, with regard to telecommunications companies.

As for Commission-regulated utilities, there is significant variation in the size, staffing, and structure not only between water, wastewater, gas, and electric companies, but also within each industry. Accordingly, the Commission historically allows its regulated utilities to determine how to manage their day-to-day business, including customer service, because in many cases a universal rule is impracticable. The Commission typically does not regulate utilities on the granular level requested by the Petition, unless there is a demonstrated reason to do so.

The Commission already has rules requiring all Commission-regulated utilities to have a system for receiving and promptly responding to emergency calls on a 24-hour per day basis. From staff's experience and knowledge with customer complaints, there does not appear to be any broad-based issue with customers being unable to reach their utilities to (a) report safety emergencies in real time; (b) dispute erroneous billing charges; (c) request service disconnection deferrals under hardship; or (d) access basic account services. Nor has there been any issue with customers voicing concern over "surrendering personal data to third-party artificial intelligence platforms." If those are issues, customers have not been addressing them to the Commission. Many of these activities can be adequately handled without use of a live agent and many customers may prefer that mode of interaction. That is not to say that the Commission does not receive complaints from utility customers regarding billing charges, service disconnection issues, or other service complaints. In those instances, however, the issue is with the customers not liking the outcome of the interaction, not an allegation that they were unable to sufficiently interact with the utility. Accordingly, staff does not believe it is necessary for the Commission to initiate rulemaking at this time.

Alternatively, staff notes that were the Commission to grant the Petition, that decision does not mean that the Commission has proposed, or would be required to propose, the adoption of any rule. Rather, a decision to grant the Petition would merely begin the rulemaking process. Staff would return at a later date with a recommendation for the Commission on whether to propose a new rule.

Conclusion

For the reasons stated above, the Commission should deny the "Petition for Rulemaking to Require All Florida-Licensed Utilities to Provide Immediate Live-Agent Access in Automated Telephone and Artificial Intelligence Customer Service Systems."

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, this docket should be closed. (Sapoznikoff)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, this docket should be closed.