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January 7, 2000

VIA HAND DELIVERY

Ms. Blanca S. Bayò Director Division of Records and Reporting Florida Public Service Commission 2540 Shumard Oak Boulevard, Room 110 Tallahassee, FL 32399-0850

> Revision of Rule 25-22.032, F.A.C., Customer Complaints Re:

DOCKET NO. 991651-PU

Dear Ms. Bayò:

Enclosed is an original and three copies of Florida Power & Light Company's ("FPL") written comments on Staff's proposed revisions to Rule 25-22.032. FPL's comments include as an attachment (Exhibit A) a redlined version of the proposed Rule, reflecting FPL's suggested changes. These two documents are also provided in Wordperfect format on the enclosed diskette number one. Exhibits B and C to FPL's comments are included as GIF files on the diskettes one and two, respectively.

If you have any questions or need further information please feel free to call my office.

Sincerely,

RWL/jsb Enclosure

CMU

EAG LEG MAAS

DOCUMENT NUMBER-DATE

00312 JAN-78

ORIGINAL

BEFORE THE

FLORIDA PUBLIC SERVICE COMMISSION

In re:	Revision of Rule 25-22.032, F.A.C.,)	DOCKET NO. 991651-PU
)	
	Customer Complaints)	Filed: January 7, 2000

FLORIDA POWER & LIGHT COMPANY COMMENTS REGARDING PROPOSED REVISIONS TO F.A.C. RULE 25-22.032

Florida Power & Light Company ("FPL") hereby submits comments regarding the proposed revisions to Rule 25-22.032 of the Florida Administrative Code ("Draft Rule") as discussed in connection with the Florida Public Service Commission ("FPSC" or "Commission") workshop conducted by its staff ("Staff") on November 19, 1999 in the above-referenced proceeding ("Workshop"). FPL includes as Exhibit A to these comments its recommended changes to the Draft Rule. FPL's suggested changes to the Draft Rule are shown in "redline" format. FPL also includes as Exhibit B to these comments a flow chart that depicts the process contemplated by FPL's proposed changes to the Draft Rule. FPL presents its comments by addressing the agenda items in the order they were discussed at the Workshop.

DISCUSSION OF THE DRAFT RULE

FPL supports Staff's efforts to revise Rule 25-22.032 in order to promote the prompt, efficient, and effective resolution of disputes between regulated companies and their customers. FPL believes that the Draft Rule offers significant improvements over existing Rule 25-22.032

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(sometimes hereinafter the "Rule"). FPL offers the following comments and suggests further changes to the Rule as reflected in Exhibit A.

A. Transfer Connect

FPL endorses the proposal to formalize through Rule 25-22.032 the transfer-connect program. In 1996, FPL participated in the transfer-connect pilot. Thereafter, FPL fully implemented the transfer-connect process. The program continues successfully to this date. A principal benefit of the program is that it enables FPL's customers to be put in immediate contact with a complaint resolution specialist at the utility. Experience with the program thus far has been positive. A high percentage of customer concerns handled through this process have been successfully resolved with only a small percentage of customers requiring further assistance from the Commission or its staff. FPL believes the process also results in cost savings, which ultimately benefit customers. The transfer connect process is an efficient way to handle customer concerns that are initially addressed to the Commission and appropriately promotes the prompt resolution of those concerns. While FPL supports the transfer connect process, FPL has proposed a few changes to the Draft Rule in order to clarify or improve the process.

FPL believes that it should be given the opportunity to address a customer's concern before the concern is treated as a complaint. Thus, if a customer contacts the Commission and agrees to put in immediate contact with the utility, the Commission should use the transfer connect process for any such concern, including any issues that otherwise might be referred by the Division of Consumer Affairs directly to the Division of Electric & Gas. FPL has suggested revisions to the Draft Rule to clarify the intent that the transfer-connect process is procedurally

distinct from the "complaint" process. FPL has also attached hereto as Exhibit B a diagram depicting the entire process as understood and/or advocated by FPL. As Exhibit B depicts, a customer contact at the FPSC is only channeled to the complaint process (e.g., either the three-day inquiry process or the logged complaint process) in cases where the customer does not agree to be put in contact with the utility.

B. Three-day Complaint Resolution

FPL has supplied changes to the Draft Rule in an effort to clarify that only "jurisdictional" matters will be passed through to the complaint process.

There may be many instances (especially in the case of complaints relating to electric service) in which "completed" resolution may not be possible within the three-day period. FPL recommends changes to the Draft Rule that would allow the utility and the Commission to deem complaints to have been "resolved" if the utility has proposed a resolution that is satisfactory to the customer, regardless of whether the proposed resolution has been physically completed. An example of such an instance is an agreed-upon adjustment to the customer's next bill which may not be processed until after the end of the three-day inquiry period. Of course, if the adjustment did not show up as agreed, the customer would have the opportunity to contact the Commission once again and Staff could "revive" the complaint and log it or otherwise handle it accordingly. FPL has proposed revisions to the Draft Rule to this end.

The Draft Rule contains a requirement that the Staff contact the customer to confirm resolution of the complaint. FPL submits that in confirming resolution of the complaint Staff should require the customer to affirmatively respond to the contrary within a specified time,

failing which the complaint will be deemed to have been resolved. This approach will allow a degree of closure for both the utility and the Commission with respect to the complaint and will prevent complaints from remaining "unresolved" for extended periods of time due to an inability to make personal contact with the customer, or the customer's failure to respond to Staff's inquiry. In the case of billing disputes, this would permit the company to proceed with appropriate collection activity. As indicated previously, if the utility does not actually resolve the complaint consistent with the agreed-upon resolution, the Commission would notify the company and require a full report.

FPL also has proposed language clarifying that a complaint which remains unresolved following the end of the three-day inquiry period is automatically rolled into the fifteen-day complaint process without further notice from or to the utility.

C. Informal Conference Procedures

FPL generally endorses the sections of the Draft Rule relative to procedures governing the informal conference process. FPL has proposed minor additions to the Draft Rule that make it clear that parties will be obliged to provide the other participants with copies of materials submitted in the informal process and that the informal conference itself must not be held sooner than five working days following receipt by all parties of the relevant materials. To ensure the informal conference procedures are completed in a timely manner, FPL also has proposed changes to the Draft Rule that would require the staff member assigned to the complaint to issue a proposed resolution within a time certain.

D. Other Comments

Customers should not be permitted to bypass Rule 25-22.032

FPL believes that disputes between a customer and a regulated utility regarding its service, including billing and rate application issues, should be addressed in the first instance through the procedures set forth in Rule 25-22.032. Occasionally, a complaint is submitted directly to the Division of Records and Reporting, rather than to the Division of Consumer Affairs. In such cases, the complaint is docketed, bypassing the procedures set forth in Rule 25-22.032. FPL submits that, upon notice to the Commission by the customer or the affected utility, the Commission should administratively close the docket and should refer the matter to Division of Consumer Affairs to be addressed in accordance with the process established through Rule 25-22.032. Such an approach is consistent with the Florida Administrative Procedures Act ("APA") and would not deprive the Customer of the right to a hearing in the event the dispute is not resolved to his or her satisfaction. As provided for in the Draft Rule, the customer ultimately has the right to challenge any recommendation submitted by Staff to the Commission. If the Commission addresses the matter by issuing a notice of proposed agency action, pursuant to the APA the customer may file protest and request a hearing on the proposed action. FPL's proposal would do nothing to deprive a customer of any rights under the APA. Rather, FPL's proposal that the informal complaint resolution process be made mandatory for customer complaints is intended to promote the prompt, efficient, and effective resolution of customer complaints. Requiring the functional equivalent of mandatory mediation prior to formal proceedings before

the Commission flouts neither the letter nor the spirit of the APA. Indeed, mediation is increasingly favored in civil litigation as well.

Customers who have legitimate concerns that they would like to see resolved as expeditiously as possible are better served by the process set forth in Rule 25-22.032. Those few individuals who are only seeking a "soap box" and who may not be genuinely interested in the resolution of their complaint would rather have an audience before the Commission at the earliest opportunity. FPL submits that such interests are not worth protecting by allowing those customers to bypass the Commission's informal dispute resolution procedures. Moreover, if any customer's dispute is unresolved to his or her satisfaction through Rule 25-22.032, that customer will have the right to raise the issue before the Commission. Mandatory application of Rule 25-22.032 simply would require that the customer rely initially upon the resources of Staff, rather than the Commission, in an effort to reach an acceptable resolution. Indeed, promoting a dispute resolution process that reduces the number of formal proceedings that the Commission is likely to have to address, while protecting the rights of party litigants, is an important and worthy end in itself. FPL has proposed changes to the Draft Rule that would clarify the need for customer complaints to be addressed in the first instance through the dispute resolution procedures under Rule 25-22.032.

¹ FPL would also support an exception to this policy that would allow the Division of Consumer Affairs to refer a matter to the Commission for formal docketed proceedings without completing the procedures in Rule 25-22.032 if at any point, the Division of Consumer Affairs determines that the complaint appears to state a claim upon which relief might be based, involves a matter that does not lend itself to potential

Complaints should be advanced by the Customer of Record or with the Customer of Record's Consent

Occasionally complaints are brought by individuals who are not the customer of record for the utility. In some instances, the relationship of the individual to the customer of record or the service location is questionable or, at best, tenuous. The Draft Rule should require that the complainant either (a) indicate that he or she is the customer of record, or (b) demonstrate (i) a sufficient interest in the service location or the subject of the complaint, or (ii) that he or she has the consent or authority of the customer of record to proceed with the complaint. This information should be required at the time the initial complaint is made. FPL has proposed additional language in subsection (1) of the Draft Rule. Such information should be required, at the latest, at the time the complainant requests an informal conference. The information could be supplied on Form X (PSC/CAF Form X).

Certain record retention and reporting requirements should be reduced

FPL has proposed minor revisions to the record retention and auditing section of the Draft Rule in order to clarify and/or reduce the requirements regarding record retention and reporting. Requiring retention of "any telephone notes" or "any written documentation relating to the complaint" places an undue burden on the utility, would potentially "chill" the taking of notes or the creation of documents by the utility in its efforts to address and resolve the complaint, and may implicate documents subject to the privilege of attorney-client communication and/or

resolution through the informal process, and the customer wishes to proceed formally with the complaint before the Commission.

attorney work product. FPL submits that a more reasonable requirement would be an obligation to retain any written documentation between the customer and the company relating to each complaint logged by the Commission. FPL's has proposed changes to this end.

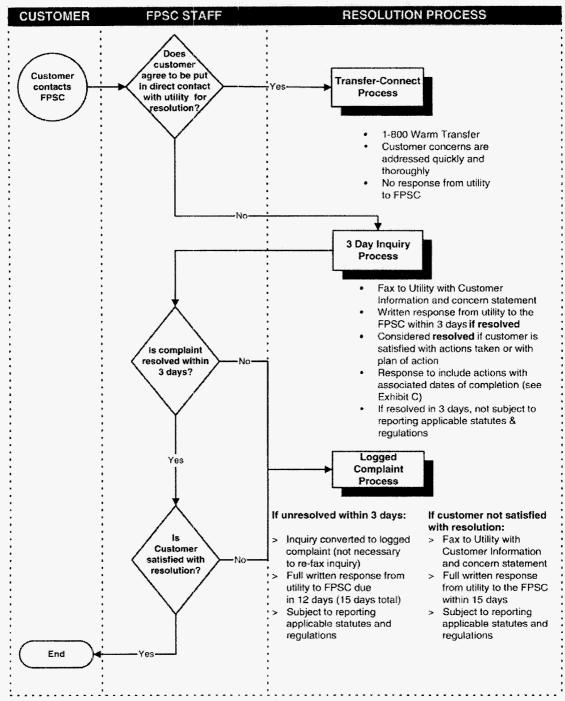
FPL also has suggested that paragraph (b)(1) be revised to clarify that with respect to each call handled via the transfer-connect process the report need only contain an indication of whether or not the customer's concern was resolved, not a description of the nature of the resolution. To require otherwise would place an undue burden on the utility and add a significant and complicating step to the transfer-connect process that would add costs not currently contemplated by the utility.

Finally, FPL is proposing that the transfer-connect call report be submitted monthly instead of annually.



PROPOSED COMPLAINT RESOLUTION PROCESS January, 2000

EXHIBIT B





Customer Inquiry Response

Customer's First Name:

First Name

Last / Business Name:

Last Name

Alternate Name:

Service Address:

Service Address City, FL Zip Code

FPSC Log:

Account #:

3-Day Log #

Received From:

PSC Analyst's

Log #

99999-99999

Response Type:

Name Final

	Date empleted	Date Pending Completion
Item		
		Completion
Comments:		

1/18/99

Approver's Title: Date of Approval:

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CONCLUSION

FPL welcomes the opportunity to have participated in the Workshop and to submit these comments on the Draft Rule. FPL looks forward to further constructive dialogue in order to ensure the development and appropriate implementation of improved procedures for resolving customer complaints.

Respectfully submitted

R. Wade Litchfie

Florida Authorized House Counsel

Attorney for

Florida Power & Light Company

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Juno Beach, Florida 33408-0420

(561) 691-7101

(561) 691-7103 (telecopier)

Exhibit A

25-22.032 Customer Complaints.

It is the Commission's intent that disputes between regulated companies and their customers be resolved as quickly, effectively, and inexpensively as possible. This rule establishes customer complaint procedures that are designed to accomplish that intent. The rule requires transfer-connect telephone numbers between certain companies and the Commission, and it includes an expedited process for complaints that can be resolved quickly by the customer and the company without extensive Commission participation. The rule also includes a process for Commission resolution of a complaint if the company and the customer cannot resolve the complaint themselves.

(1) Any customer of a Commission regulated company may file a complaint with the Division of Consumer Affairs whenever the customer that has an unresolved dispute with the company regarding electric, gas, telephone, water, or wastewater, billing or service and who wishes to lodge a complaint with the Commission shall submit or make such complaint to the Division of Consumer Affairs. The complaint may be communicated orally or in writing. The complaint must include identify the name of the company against which the complaint is made, the name of the customer of record, and the service address. If the person submitting the complaint ("Complainant") is not the customer of

record, the complaint must indicate the relationship of the customer of record to the Complainant, and (i) state the nature of the Complainant's interest in the complaint, or (ii) provide written permission of the customer of record to submit the complaint on behalf of the customer of record. Upon receipt of the complaint, a staff member will determine if the customer has contacted the utility and, if the customer agrees, will put the customer in contact with the company for resolution of the complaint using the transfer-connect system required in subsection (2) or by other appropriate means for companies not subject to the requirements of subsection (2). If the customer does not agree to be put in direct contact with the company, the staff member will submit the complaint to the company for resolution in accordance with the three-day complaint resolution process set forth in subsection (3).

(2) Transfer-connect Requirement.

(a) Each company specified in paragraph (2)(b) shall provide a transfer-connect (warm transfer) telephone number by which the Commission may directly transfer a customer to that company's customer service representative. When the transfer is complete, any further charges for the call shall be the responsibility of the company and not the Commission or the customer. Each company must provide customer service representatives to handle transferred calls during the Commission's normal business hours; Monday through Friday, 8:00 A.M. to 5:00 P.M., Eastern time.

(b) The following types of companies shall obtain a transfer
connect number:

1. All local exchange telecommunications companies;

2. Alternative local exchange telecommunications companies

- with annual gross intrastate revenues greater than \$750,000;
- 3. Interexchange telecommunications companies with annual gross intrastate revenues greater than \$750,000;
 - 4. All investor owned electric utilities;

- 5. All investor-owned gas companies with more than 25,000 customers;
- 6. All Class A water or wastewater companies with annual gross intrastate revenues in excess of \$750,000.
 - (3) Complaints resolved within three (3) days.

If companies are able to resolve customer complaints within three days, they shall be resolved in the following manner:

(a) The Commission staff member handling the complaint will forward a description of the complaint and any disputed amount to the company for response and resolution. The three day period will begin at 5:00 p.m. on the day the information is sent to the company and end at 5:00 p.m. on the third working day of the company. and shall exclude weekends and holidays. If the company satisfactorily resolves the complaint or proposes a resolution satisfactory to the customer, the company shall notify the staff member that of the complaint has been resolved resolution.

Otherwise, the complaint shall be addressed in accordance with

subsection (4) without further notification from the staff member.

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- (b) The Commission will contact the customer to confirm that the complaint has been resolved. In confirming that the complaint has been resolved, the Commission will require the customer to respond to the Commissions' request for confirmation within a specified period of time, failing which the complaint will be deemed to have been resolved. In cases of billing disputes, upon confirmation that the complaint has been resolved, the company may proceed with appropriate collection activities, as applicable. If the customer confirms that the complaint has been resolved or the complaint is deemed resolved, the complaint will not be reported in the total number of complaints shown for that company in the Commission Consumer Complaint Activity Report but may be tracked and reported for other purposes. However, the Commission will retain the information for use in enforcement proceedings, or for any other purpose necessary to perform its regulatory obligations.
- (c) If, in response to the Commission's request for confirmation described in paragraph 3(b), the customer informs the Commission staff member that the complaint has not been resolved, the Commission will notify the company and require a full report as prescribed in subsection (4).
 - (4) Complaints not resolved within three days.
 - If the customer does not agree to contact resolve the

complaint with the company directly, or if the customer is not satisfied with the company's proposed or actual resolution of the complaint, a Commission staff member will investigate the complaint and attempt to resolve the dispute in the following manner:

- (a) The staff member will notify the company of the complaint and request a response. The company shall provide its response to the complaint within fifteen (15) working days. The response shall explain the company's actions in the disputed matter and the extent to which those actions were consistent with applicable statutes and regulations. The response shall also describe all attempts to resolve the customer's complaint.
- (b) The staff member investigating the complaint may request copies of bills, billing statements, field reports, written documents, or other information in the participants' possession that may be necessary to resolve the dispute. The staff member may perform, or request the company to perform, any tests, on-site inspections, and reviews of company records necessary to aid in the resolution of the dispute.
- (5) During the complaint process, a company shall not discontinue service to a customer because of an unpaid disputed bill. However, the company may require the customer to pay that part of a bill which is not in dispute. If the company and the customer cannot agree on the amount in dispute, the staff member will make a reasonable estimate to establish an interim disputed

amount until the complaint is resolved. If the customer fails to pay the undisputed portion of the bill the company may discontinue the customer's service pursuant to Commission rules.

- (6) Within _____ days of the Commission's receipt of the Company's response pursuant to subsection (4)(a), Tthe staff member will propose a resolution of the complaint based on the information provided by all participants to the complaint and applicable statutes and regulations. The proposed resolution may be either oral or written. Upon request, either participant shall be entitled to a written copy of the proposed resolution.
- (7) Informal Conference. If a participant objects to the proposed resolution the participant may request an informal conference on the complaint.
- (a) The request <u>for an informal conference</u> shall be in writing and filed with the Division of Consumer Affairs within 30 days after the proposed resolution is sent to the <u>participants</u> customer.
- (b) When the request for an informal conference is received, the Director of the Division of Consumer Affairs will assign a Commission staff member to process the request for an informal conference. The staff member will advise the each participants to complete Form X (PSC/CAF Form X), incorporated by reference herein, and return the form to the Commission within fifteen (15) days. A copy of Form X may be obtained from the Division of Consumer Affairs. The participants shall provide the following

information on the form:

1. A statement describing the facts that give rise to the complaint;

- 2. A statement of the issues to be resolved; and
- 3. A statement of the relief requested.

The informal conference shall be limited to the complaint and the statement of facts and issues identified by the participants in the form. The Commission staff will notify the requesting participant customer that the request for an informal conference will be denied if the requesting participant's form is not received within the 15 days.

- (c) The Director of the Division will review the Customer statements and either appoint a staff member to conduct the informal conference, or make a recommendation to the Commission for dismissal based on a finding that the complaint states no basis upon which relief may be granted.
- (d) If a conference is granted, the staff member appointed to conduct the conference shall not have participated in the investigation or proposed resolution of the complaint.
- (e) After consulting with the participants, the staff member will send a written notice to the participants setting forth the unresolved issues, the procedures to be followed at the informal conference, the dates by which written materials are to be filed, and the time and place for the conference. The conference may be held by telephone conference, video teleconference, or in person,

no sooner than ten days following the notice and no sooner than five working days following receipt by each participant of all written materials filed.

- (f) At the conference, the participants shall have the opportunity to present information, orally or in writing, in support of their positions. During the conference, the staff member may encourage the parties to resolve the dispute. The Commission will be responsible for tape-recording, but not transcribing, the informal conference. A participant may arrange for transcription at his own expense.
- (g) The staff member may permit any participant to file additional information, documentation, or arguments. The opposing participant shall have an opportunity to respond.
- (h) If a settlement is not reached within 20 days following the informal conference or the last post-conference filing, whichever is later, the staff member shall submit a recommendation to the Commission for consideration at the next available Agenda Conference. Copies of the recommendation shall be sent to the participants.
- (i) If the Director denies the request for an informal conference, the participants shall be notified in writing. Within 20 days of giving notice, the staff shall submit a recommendation for consideration at the next available Agenda Conference. Copies of the recommendation shall be sent to the participants.

(j) The Commission will address the matter by issuing a notice of proposed agency action or by setting the matter for hearing pursuant to section 120.57, Florida Statutes.

- (87) At any point during the complaint proceedings, a participant has the right to be represented by an attorney or other qualified representative. For purposes of this rule a qualified representative may be any person the party chooses, unless the Commission sets the matter for hearing. If the Commission sets the matter for hearing, the participants may be represented by an attorney or a qualified representative as prescribed in Uniform Rule 28-106.106, Florida Administrative Code, or, in the case of a customer, participants may represent themselves. Each participant shall be responsible for his own expenses in the handling of the complaint.
- (98) At any time the participants may agree to settle their dispute. If a settlement is reached, the participants or their representatives shall file with the Division of Consumer Affairs a written statement to that effect. The statement shall indicate that the settlement is binding on both participants, and that the participants waive any right to further review or action by the Commission. If the complaint has been docketed, the Division of Consumer Affairs shall submit the settlement to the Commission for approval. If the complaint has not been docketed, the Division will acknowledge the statement of settlement by letter to the participants.

1 (109) Record retention and auditing.
2 (a) All companies shall retain any telephone notes or

written documentation <u>between</u> the <u>customer</u> and the <u>company</u> relating to each Commission complaint for three years, beginning when the complaint was first received <u>by the Division of Consumer</u> Affairs.

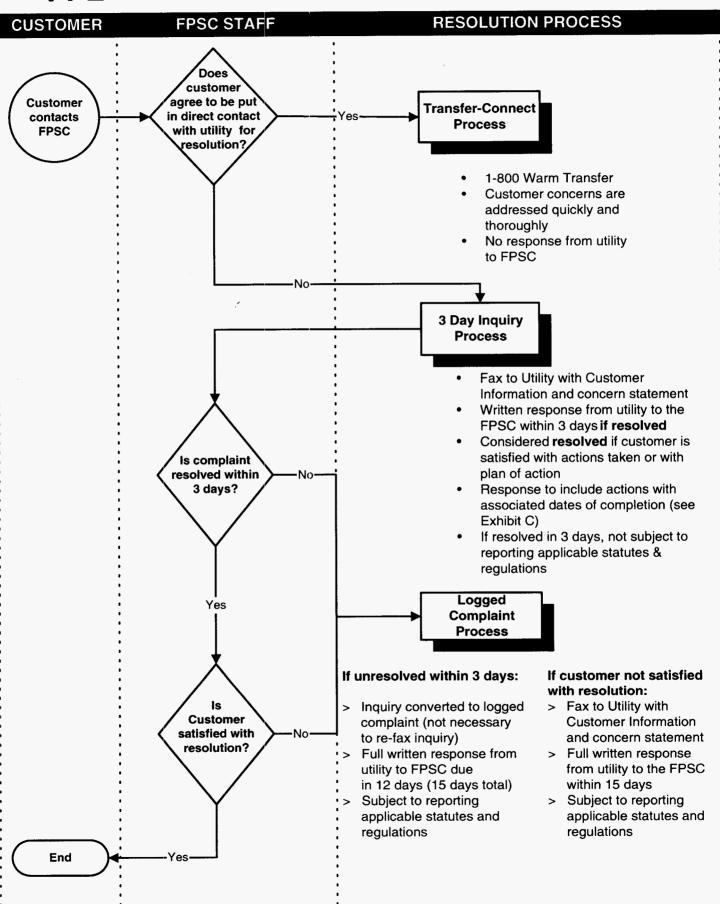
(b) All companies shall file with the Commission, beginning 60 days after the effective date of this rule and monthlyyearly thereafter, a report that summarizes the following information for the preceding calendar monthyear:

- 1. The total number of calls handled via transfer connect, including the customer's name, and whether or not the customer's concern was resolved company resolution;
- 2. The number of complaints handled under the three day complaint resolution procedure;
- (c) The Commission shall have access to all such records for audit purposes.
- 18 | Specific Authority 120.53(1), 350.127(2) FS.
- 19 Law Implemented 120.53(1), 120.57, 120.59(4) FS.
- 20 | History--New 1-3-89, Amended 10-28-93,



PROF SED COMPLAINT RESOLUTION PROCESS January, 2000

EXHIBIT B





Customer Inquiry Response

Cust	omer	SFIRS	IN	iame:
Lact	/ Rue	inace	Na	ma.

First Name

Last Name

Alternate Name:

Service Address:

Service Address

City, FL Zip Code

FPSC Log:

3-Day Log #

Received From:

PSC Analyst's

Name

Account #:

99999-99999

Response Type:

Final

Res	ponse	Commen	ts:
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The customer's concern is resolved.

Following are the steps taken to resolve the customer's concern:

Item No.	Action	Date Completed	Date Pending Completion
			×

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Ca	m	m	e	n	ts	:

Approval Signature:	
Approver's Title:	
Date of Approval:	

11/18/99