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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. UNDOCKETED

IN RE: PROPOSED AMENDMENTS TO
RULE 25-9.001, APPLICATION AND
SCOPE, RULE 25-9.002,
DEFINITIONS, RULE 25-9.050,
APPLICATION AND SCOPE, RULE
25-9.051, DEFINITIONS, RULE
25-9.052, GENERAL SUBMITTAL
INSTRUCTIONS, AND RULE
25-9.053, FILING AND
EVALUATION OF SUBMITTALS

PROCEEDINGS: STAFF RULE DEVELOPMENT WORKSHOP

DATE: Tuesday, June 9, 2015

TIME: Commenced at 1:30 p.m.
Concluded at 2:00 p.m.

PLACE: Florida Public Service Commission
Room 105, Gerald L. Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

REPORTED BY: MICHELLE SUBIA, RPR
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at Large

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APPEARANCES :

PAMELA PAGE, PSC
JIM DEAN, PSC
ELISABETH DRAPER, PSC
DON ROME, PSC
DAN O'HAGAN, FMPA/FMEA
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P R O C E E D I N G S

MS. PAGE: There's a sign-in sheet that's being circulated, and we ask that everyone sign the sheet so that we have a record of who's in attendance today.

The materials for today's workshop are being distributed. One set of rules are the rules that we issued with the Notice of Rule Development on the Commission's website. The second set of rules are the ones that we have changed since that date when the notice was published.

Pursuant to notice, this time and place has been set for Staff rule development workshop in an undocketed rule making on amendments 25-9.001, 25-9.002, 25-9.050, 25-9.051, 25-9.052 and 25-9.053, Florida Administrative Code, concerning tariff requirements and tariff filing procedures.

I am Pamela Page with the Office of General Counsel. Also here on behalf of Staff are Jim Dean, Elisabeth Draper and Don Rome.

There are just a few reminders that we want to make. If you speak, please identify yourself for the record and for the benefit of others.

Does anyone have any preliminary matters or questions before we begin?

1 (No response.)

2 MS. PAGE: Hearing none, we will now discuss
3 the rule amendments in order, as we have suggested
4 in the notice. What I'm going to be working from
5 is the materials that reflect the changes that we
6 made in response to comments received, not the
7 Commission notice.

8 MR. DEAN: It's the one that doesn't have a
9 cover page, it starts with the text of the rule.

10 MS. PAGE: Okay. 25-9.001 we made changes to
11 that rule to reflect the applicability of certain
12 rules rather than stating it in parts, for
13 example, parts one and two and three and four. We
14 thought it would be clearer and more simple and
15 direct to state it that way.

16 25-9.002 we have, since the notice was
17 published, eliminated the phrase "Except where a
18 different meaning clearly appears from the
19 context." And the definition of utility is to
20 include all electric and gas utilities, water
21 systems and wastewater systems subject to the rate
22 jurisdiction of this Commission.

23 We have repealed 25-9.050, "Application and
24 Scope" because we have included that language in
25 the previous Rule 25-9.001.

1 In 25-9.051, we have added a statutory
2 reference to Section 366.04(2). We have also
3 changed the terminology from "applies" to "refer"
4 or "refers." And we have added a new phrase in
5 Subsection (7), line 18 reading "between various
6 customer classes." So "Rate structure refers to
7 the classification system used in justifying
8 different rates between various customer classes."

9 On 25-9.052, we have simplified this rule.
10 We think hopefully that we clarified it. We've
11 taken out a number of provisions and inserted
12 instead a one line summary which we think captures
13 the intent of this rule. This is the filing
14 instructions. The main changes, "All
15 documentation filed with the Commission Clerk
16 shall be accompanied by a list of the materials
17 being filed." And in Subsection (4), "When a
18 utility's documentation reflects a proposed change
19 in rate structure, the utility shall provide
20 information to support that change in the rate
21 structure."

22 In 25-9.053, we made a number of changes
23 primarily concerning the situation where a utility
24 might be notified that a proposed rate structure
25 is inconsistent with the criteria listed in

1 Subsection (1) of the rule. The amendments as
2 suggested would state that if the Commission finds
3 the proposed rate structure inconsistent with the
4 criteria in Subsection (1), the Commission will
5 direct the utility to file a rate structure that
6 is consistent.

7 MS. CHRISTENSEN: Can I ask a question? I
8 don't know, I missed the beginning, are you taking
9 comments after you finish going through all of the
10 rules --

11 MS. PAGE: Yes.

12 MS. CHRISTENSEN: -- or while you're going
13 through them?

14 MS. PAGE: Yes. And I think with that, I've
15 given a summary of the changes in the language
16 that we have made after the Commission notice was
17 published. And since that time, we have received
18 several comments, and these changes were made
19 mostly in response to those comments.

20 Now, does anyone else have -- anyone have
21 comments or suggestions that you would like to
22 make?

23 MS. CHRISTENSEN: Yeah. Patty Christensen
24 with the Office of Public Counsel. We just saw
25 the rules and were reviewing them, and I had

1 particular questions about the changes proposed to
2 25-9.053, and specifically with regard to
3 Sections (1) and (2) and the way that they
4 operate. Essentially I have two questions, and
5 one may make the other one moot.

6 The way that they currently read now, I guess
7 my question was as proposed by the language in
8 Subsection (2), it talks about administrative
9 approval of documentation. I guess we were
10 looking to get clarification of what did you all
11 intend by "administrative approval," who has
12 administrative approval, under what circumstances
13 are you all -- would be looking to have
14 administrative approval? Are the criteria set out
15 in Subsection (1) the basis for that
16 administrative approval? That would be the way
17 that I would interpret it, but I wanted to --

18 MS. PAGE: I'm going to jump in here, but,
19 Staff, please feel free to add or correct me if
20 I'm misstating something. But I would say that
21 the term "administrative approval" contemplates
22 Staff action.

23 MS. CHRISTENSEN: Correct.

24 MS. PAGE: Not action by the Commission.

25 MS. CHRISTENSEN: And I would assume that.

1 But are you assuming Staff action, if Staff makes
2 a determination, that it's cost based; has
3 historical precedent; embodies pricing concepts
4 previously approved by the Commission; or is not
5 unduly discriminatory? Is that the criteria?

6 MS. DRAPER: Yes. And that's pretty much
7 what we are doing now. We administratively
8 approve the municipal and cooperative tariff
9 filings.

10 MS. CHRISTENSEN: Well, I guess my first
11 observation is that may be going beyond
12 ministerial functions if there's discretionary
13 calls being made on any of those. But my real --
14 my other additional concern is that there's a new
15 law that was passed, House Bill 7109, subsection
16 -- and it has yet to be signed by the Governor,
17 but we expect that it will be tomorrow -- 366.05,
18 Powers of the Commission, subsection -- I'm trying
19 to follow the thing -- it looks like it's (1)(e).
20 Maybe it's (2)(e). I can ever tell under their
21 numbering.

22 But under (e), Subsection (e), it says, "New
23 tariffs and changes to existing tariffs, other
24 than an administrative change that does not
25 substantially change the meaning or operation of

1 the tariff must be approved by majority vote of
2 the Commission, except as otherwise provided by
3 law."

4 So have you all considered that in the
5 drafting of this rule?

6 MR. BRYANT: May I ask a question on that, if
7 I could? I'm Fred Bryant.

8 What section does that new law amend?

9 MS. CHRISTENSEN: 366.05, the powers of the
10 Commission. It's general applicability for all
11 tariffs, as far as I can tell.

12 MS. DRAPER: We have talked about it and we
13 believe it only applies to the IOUs, not the
14 municipals or cooperatives.

15 MS. CHRISTENSEN: Okay.

16 MR. BRYANT: Yes, that was the point I was
17 going to make, that is my reading of that section,
18 that it is not applicable to the municipal
19 utilities or the rural electric cooperatives.

20 MS. CHRISTENSEN: Okay. And that would be
21 how? I mean, I'm just --

22 MR. WILLINGHAM: 366.11 makes it very clear.

23 MS. CHRISTENSEN: Exceptions to the
24 municipals?

25 MR. WILLINGHAM: Yes.

1 MS. CHRISTENSEN: Or the municipals are
2 exempt?

3 MR. WILLINGHAM: It explains the statutes
4 that we're subject to. And we're only subject to,
5 I think it's Subsection (7) in Chapter 366.05.

6 MR. BRYANT: That's correct.

7 MS. CHRISTENSEN: Okay. I'm just trying to
8 get an understanding of --

9 MR. BRYANT: Good question though.

10 MS. CHRISTENSEN: -- whether or not that
11 impacts it, because it doesn't appear to have --
12 now, the municipals may be exempt from other
13 applications of the statute, but the tariffs, any
14 tariff that's filed pursuant to the statute, I'm
15 not sure how that would interact. I guess
16 that's --

17 MR. DEAN: Maybe the key point is this entire
18 provision only affects the municipals and
19 cooperatives. There's no applicability of this to
20 the IOUs whatsoever.

21 MS. CHRISTENSEN: Okay.

22 MR. DEAN: That may clarify it further.

23 MS. CHRISTENSEN: And that might do it. I
24 mean, that may be the real issue here is that you
25 have limited jurisdiction of the municipals and

1 cooperatives to begin with.

2 MR. DEAN: That's kind of the --

3 MS. CHRISTENSEN: And therefore, you know --

4 MR. BRYANT: May I ask a question? I assume
5 the Office of Public Counsel's focus and worry is
6 as to the investor-owned utilities in the process,
7 that Public Counsel, of course, is engaged when
8 investor-owned utilities make their filings?

9 MS. CHRISTENSEN: Well, that and to make sure
10 that whatever is being done is within the powers
11 of the Commission and being done in accord with
12 the Commission. It doesn't really -- to the
13 extent that a municipal files a tariff or has to
14 file a tariff, for you all it should be kind of
15 neutral ground whether or not the Staff approves
16 it or the Commission has to approve it.

17 From our standpoint, we want to make sure the
18 procedure is in place and done correctly, that if
19 it needs to be a decision that goes to the full
20 Commission, that the Commission is rendering the
21 decision versus the Staff. So I'm not sure that
22 we're at odds with the municipals, because for
23 your purposes, the Commission, if they have the
24 power to approve the tariff, they're going to
25 either approve it via the Commissioners or via

1 Staff with whatever jurisdictional power they have
2 to approve the tariff.

3 And that's really -- our concern here is more
4 about the way -- making sure that, you know, these
5 are being implemented by Staff in a ministerial
6 function and not going into the other way where it
7 requires some discretion on the Commission Staff
8 to approve. That was really my main concern,
9 because the way the language reads, it appears
10 that it could be calling -- requiring a little bit
11 more decision making on the Staff's part. Not
12 that I think Staff isn't capable of it, but I
13 think the law requires that anything that's beyond
14 ministerial functions goes to the Commissioners
15 for a decision.

16 MR. DEAN: Yeah. You're also correct that
17 one is the conditional that Staff can operate in.
18 And those have a long history here of being sort
19 of the standard for review. And it's currently
20 embedded in our Administrative Procedures Act, or
21 something very similar to this. So that is in
22 fact the range of actions, if it meets these
23 criteria, Staff can, as a ministerial function,
24 approve the tariff.

25 If, however, it does not meet that, then it

1 goes to the next level for a Commission decision
2 on it being consistent with the rate structure
3 jurisdiction.

4 MR. BRYANT: If I might. Fred Bryant. The
5 statute was very carefully carved in a very, very
6 narrow way in 1975, as I recall, to make sure that
7 very limited jurisdiction that was given to the
8 Commission or the municipal and electric
9 cooperative -- or the municipalities and the
10 electric cooperatives -- was very narrowly
11 implemented by the Commission.

12 Indeed, now, there's been a long line of
13 cases before the Florida Supreme Court that has
14 kept that very narrow line of demarcation, which I
15 participated in each one of those cases, if I
16 recall correctly. And the purpose was because
17 there is a very different function involved, that
18 should be involved by the Commission in a review
19 and approval process of the investor-owned
20 utilities where they have total jurisdiction, not
21 only for rates and rate structure, but many other
22 things.

23 And I know that the Legislature and the
24 courts have been very careful to track that narrow
25 jurisdiction that was given to the Commission over

1 the municipals and electric cooperatives because
2 there's a very different purpose for that
3 jurisdiction. And that jurisdiction primarily is
4 the rate structure jurisdiction, not rate
5 jurisdiction.

6 As a consequence, the original cases in the
7 Supreme Court that established the guidelines for
8 the Commission, as well as the Commission's
9 adoption of their rules, has long had a Staff
10 dominated process because most of what they are
11 doing is more of an administrative function but
12 also keeping an entryway so that the Commission,
13 at the Commission level, can be involved. And
14 that's really the -- the way I understood what the
15 Staff was trying to accomplish in this rule making
16 was to modernize and better functionalize that
17 very narrow Staff administrative process.

18 And we're quite comfortable with what the
19 Staff has developed and added some comments and
20 changes to this different, second iteration. And
21 we have a couple of minor -- we think very minor
22 comments we want to ask about and suggest, one of
23 which I think is just a nit, but we'll get to that
24 process very shortly.

25 MS. PAGE: Well, I want to say that I, being

1 General Counsel's Office representative, I
2 understand OPC's concerns here, but it's a legal
3 issue really. And I will take your comments back
4 to General Counsel and we will get back to you on
5 that.

6 MS. CHRISTENSEN: Okay. And my real concern
7 is more that it's being codified in a rule. And I
8 don't know what the -- the Commission may have
9 practices that way. But once you start getting
10 codified in a rule, that starts looking a little
11 bit more decision making than ministerial, even if
12 that's the way you all have treated it, as
13 ministerial, it looks decision making in the rule.

14 And I don't know if that's what you intended
15 it to be, but that was my -- in my reading of it,
16 it didn't look like we're just checking boxes for
17 you did this, you did this, you did this, okay,
18 there's no discretion to say yea or nay. And I
19 think that's where my concern is, because it's the
20 first time I'm seeing it coming into one of the
21 Commission rules. You may have had it as a
22 practice, but it hasn't been in a rule.

23 MR. DEAN: Duly noted.

24 MS. PAGE: I'll get back to you.

25 MS. CHRISTENSEN: Okay. And, you know, if

1 you have it somewhere in the Administrative
2 Procedures that the Commission is using, I would
3 love to take a look at that too, but that was
4 really my concern. I'm not here to step out the
5 municipals and, you know, the routine functioning
6 of the Commission, but I want to make sure that
7 that was being observed.

8 MR. DEAN: This is Jim Dean. Order Number
9 16784.

10 MS. CHRISTENSEN: Order, I'm sorry, one --

11 MR. DEAN: 16784.

12 MS. CHRISTENSEN: Okay.

13 MR. DEAN: 1986.

14 MS. CHRISTENSEN: All right. We'll take a
15 look at that.

16 MS. PAGE: Any other comments?

17 MR. BRYANT: Yes. I think that Daniel is
18 going to handle a couple of additional questions
19 and comments that we have.

20 MR. O'HAGAN: Yeah.

21 MR. BRYANT: We're referring to the second
22 draft of your proposed rule changes. Is that
23 correct, Dan?

24 MR. O'HAGAN: Yes. This is Dan O'Hagan. I'm
25 also with FMPA. And I'm on -- I'll use the sheet

1 that you're looking at. This is 25-9.053. And we
2 had -- really we just have two suggestions and, as
3 Fred said, one minor nit. I'll start with what we
4 think is probably the most important.

5 It's been our understanding, and I think --
6 we've spoken with Staff, and I believe it's
7 Staff's understanding too, so this is partially a
8 question of Staff -- that if a rate structure
9 change is filed by a municipal or a cooperative,
10 that if there was a disagreement over that rate
11 structure, over whether it met the criteria, and
12 it went to, let's say, a Commission hearing, that
13 the rates could still go into effect pending the
14 outcome of the hearing, meaning that the
15 Commission didn't have file and suspend authority
16 over a municipality or a cooperative.

17 And on top of that, we were always under the
18 understanding that they don't have refund
19 jurisdiction as well, meaning they could order the
20 municipalities to issue a refund. So our
21 suggestion was to add that in to the end of
22 Section (2) to kind of -- it became a little
23 ambiguous in this because it talked about the
24 30-day ahead of time filing and then it talked
25 about the process for filing and then the process

1 for the Commission disputing it. But it didn't
2 really make it clear that the utility could still
3 put their rates into effect pending the outcome.

4 So we thought we would add language to the
5 end of line 18 of Subsection (2) that would read:
6 Regardless of Staff's determination or the
7 initiation of appropriate proceedings by the
8 Commission to consider the rate structure, a
9 utility's proposed rate structure may go into
10 effect as provided for in the utility's filing.

11 And we can provide that to you as well so you
12 don't have to write it all down.

13 MS. PAGE: Yeah, if you would provide us with
14 that.

15 MR. BRYANT: And, thus, the obvious outcome
16 would be if the Commission later determined by
17 order that we had to make changes, we would then
18 at that point comply and make those changes.

19 MR. O'HAGAN: And the second suggestion we
20 had was in Subsection (2) again, it provided that
21 if there was a disagreement with Staff's
22 determination that the utility would request the
23 Commission to consider the proposed rate
24 structure.

25 We would suggest that it would probably be

1 more appropriate for the utility -- I'm sorry --
2 for the Commission Staff to make that request of
3 the Commission. So we would suggest striking in
4 line 17 "and requesting" and just ending that
5 sentence with a period and then inserting "if the
6 utility disagrees with Staff's determination,
7 Staff may request the Commission to consider the
8 proposed rate structure."

9 MR. BRYANT: We're a little confused on
10 process, I guess really is what we're saying here.
11 In the past, there's been only two or three
12 occasions that I can recall over the last
13 thirty-some years where a municipal has made a
14 filing, the Staff suggested changes, and then the
15 way the rules were working then we said we didn't
16 agree with Staff comments. Those situations then
17 the Staff went to the Commission and opened up a
18 docket.

19 So our language is intended -- it may not be
20 perfect, it may not be needed -- to continue that
21 type of process. So we're a little confused on
22 that, maybe some explanation on that would be
23 helpful.

24 MR. DEAN: Yes. Let me respond. This is Jim
25 Dean, Commission Staff. I think what we envision

1 happening, as the rule was currently constructed,
2 is you have a choice, you can either accept our
3 determination that it's inconsistent and then
4 refile one that's consistent.

5 MR. BRYANT: Or at least file another one?

6 MR. DEAN: At least file --

7 MR. BRYANT: I mean, this may take a couple
8 of iterations?

9 MR. DEAN: It may take a couple of
10 iterations. And that's kind of what happens now.

11 MR. BRYANT: Yes.

12 MR. DEAN: Sometimes like on a miscellaneous
13 service charge, we'll ask for some documentation
14 or something. And you provide the documentation,
15 Staff will administratively approve it.

16 So what we kind of thought the process would
17 be is if you disagree with Staff's determination
18 that it was inconsistent, you would have the
19 burden of saying, well, I'm going to take it to
20 the Commission or you could accept and file
21 another one to get it right.

22 So I don't have a problem, I don't think,
23 with Staff procedurally opening the docket, saying
24 we are in disagreement with the utility, we
25 request a docket be open. That's a procedure

1 issue. So let us look at the language of it.

2 MR. BRYANT: Okay.

3 MR. DEAN: It wasn't to shift the burden to
4 you, it was to give you the opportunity to go to
5 the next level of review if you were dissatisfied
6 with Staff's determination.

7 MR. BRYANT: I understand. I appreciate
8 that. I think we would prefer our way, but I want
9 to hear back from you all. We don't want to
10 change to go to the Commission to ultimately be
11 the --

12 MR. DEAN: Absolutely not.

13 MR. BRYANT: -- the decision maker. That is
14 not our intent at all.

15 MR. DEAN: No, absolutely. It's truly who is
16 going to open the docket and say we've got a
17 dispute.

18 MR. BRYANT: Yes.

19 MR. DEAN: You filed a letter saying we
20 disagree with Staff's determination, I think we
21 can work this out.

22 MR. BRYANT: We're not -- we don't like being
23 in the position and saying to the Commission that
24 we have a dispute.

25 MR. DEAN: You would rather us take that to

1 them, okay.

2 MR. BRYANT: Well, you understand we're a
3 municipality.

4 MR. DEAN: I understand. Let us look at
5 that.

6 MR. BRYANT: Okay.

7 MS. CHRISTENSEN: Can I ask for clarification
8 on the first suggestive language you all said?
9 Was that subject to a refund or not subject to
10 refund when you put your terms into effect pending
11 the outcome?

12 MR. O'HAGAN: I think it would be subject to
13 a refund at the decision of the municipality or
14 electric cooperative, meaning that the Commission
15 doesn't have the jurisdiction to order a refund.

16 MS. CHRISTENSEN: Okay.

17 MR. O'HAGAN: And then I just have one very
18 minor nit. This is 25-9.052, line two of that
19 page, Subsection (1). Just to be consistent with
20 the rest of the rule in line two there, we would
21 suggest adding the word "clerk, file with the
22 Commission Clerk documentation," so inserting the
23 word "clerk" there. If you see like, for example,
24 on line five, it says, "with the Commission
25 Clerk," on line seven "Commission Clerk." That

1 would be to be consistent.

2 MR. DEAN: Yes. Good catch.

3 MS. PAGE: Are there any other comments?

4 MR. KNOWLES: Yeah, just something minor in
5 25-9.053 in Paragraph (2) again. The way I read
6 this, it appears that in the case of (a) or (b),
7 the "receipt of Staff notification" basically --
8 and it could be notification that they approve or
9 notification that Staff disapproves -- that that
10 following sentence applies to both. It reads that
11 way to me, and I don't think that was the intent,
12 your intent.

13 MR. DEAN: This is Jim Dean, Staff. So on
14 line 15 if it said, "Upon receipt of Staff's
15 notification of inconsistency"?

16 MR. KNOWLES: Yes.

17 MR. DEAN: Something like that to clarify?

18 MR. KNOWLES: Yes.

19 MR. DEAN: Duly noted.

20 MS. PAGE: Any other comments?

21 MR. BRYANT: Let me just say, if I could, it
22 appears we may be close to closure on this. Some
23 might say I'm the grandfather of this process,
24 maybe I am, but I want to compliment Staff. Very
25 seldom if we had problems with this process, Staff

1 has always been extraordinary cooperative in
2 working with us, recognizing we have municipal
3 utilities that range in smallness from Blountstown
4 to very large, to JEA. Obviously some have more
5 sophistication than others of our municipal
6 clients. But we all appreciate Staff's efforts to
7 help all of us in this process, and we continue to
8 commit and pledge to this Staff that with these
9 changes we will continue that process with the
10 Staff and the Commission. We want to do it right.

11 MS. PAGE: Thank you.

12 MR. DEAN: Yeah, thank you for those
13 comments. Jim Dean of Staff.

14 We also recognize the size differences and
15 the technical sophistication. And Elisabeth and
16 Don and other Staff members go out of their way to
17 facilitate the proper filing of these tariffs,
18 talk to your folks, try to avoid the expense to
19 elevate it to the Commission's level of the
20 process of litigation. We will continue also to
21 work with the municipals and the cooperatives to
22 facilitate filing these tariffs and getting them
23 approved.

24 MS. PAGE: We anticipate that the transcript
25 of this workshop will be available by June the

1 16th. If anyone would like to submit
2 post-workshop comments, we would like to receive
3 those comments by Friday, June 26th.

4 As part of this rule making, Staff will
5 prepare a statement of estimated regulatory costs
6 consistent with Sections 120.54(3)(b) and
7 120.541(2), Florida Statutes.

8 As part of your comments, we would appreciate
9 any input you may have on whether or not you
10 anticipate that the suggested rule amendments
11 would be likely to directly or indirectly increase
12 regulatory costs in excess of \$200,000 in the
13 aggregate in Florida within one year after the
14 rule's implementation.

15 Staff would also appreciate any input you may
16 have as to whether you believe that these rules
17 are likely to have an adverse impact on any of the
18 matters listed in Section 120.541(2), Florida
19 Statutes.

20 Any questions?

21 (No response.)

22 MS. PAGE: In that case, thank you for your
23 participation, and this Staff workshop is
24 adjourned.

25 MR. DEAN: Thank you all for attending and

Hearing proceedings before:

1 participating.

2 (Whereupon, proceedings were concluded at

3 2:00 p.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, MICHELLE SUBIA, Registered Professional Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages, numbered 3 through 26, are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 14th day of June, 2015.

Michelle Subia

MICHELLE SUBIA, RPR
NOTARY PUBLIC
COMMISSION #FF127508
EXPIRES JUNE 7, 2018



Parties/Staff
event date
Docket No.

Handout

Attachment

6/9/2015

Undocketed

25-9.002 Definitions.

For the purposes of Rules 25-9.002 through 25-9.045, F.A.C., ~~these regulations~~ the following definitions shall apply:

- (1) The word "Commission" refers to the Florida Public Service Commission.
- (2) ~~Except where a different meaning clearly appears from the context,~~ The word or words "utility" or "public utility" as used in these rules shall mean and include all electric and gas utilities, water systems, and wastewater systems, which are, or may hereafter be, subject to the rate jurisdiction of this Commission.
- (3) The term "rules" and/or "regulations" refers to the general practices followed by the utility in carrying on its business with its customers and includes the rules, practices, classifications, exceptions and conditions observed by the utility in supplying service.
- (4) The term "rate" refers to the price or charge for utility service.
- (5) The term "rate schedule" refers to the rate or charge for the particular classification of service plus the several provisions necessary for billing, including all special terms and conditions under which service shall be furnished at such rate or charge.
- (6) The term "standard forms" means and includes all standard contract or agreement forms for execution between the utility and its customers.
- (7) "Contracts and agreements" shall refer to special contracts entered into by the utility for the sale of commodities ~~commodity~~ or services in a manner or subject to provisions not specifically covered by its filed standard rate schedules.
- (8) The term "tariff" shall refer to the assembled volume containing the "rules," "regulations," "rate schedules," "standard forms," "contracts," and other material required by these regulations as filed with the Commission.

Rulemaking Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 366.05(1), 367.081, 367.091, 367.101, 367.021 FS. History—New 1-8-75, Repromulgated 10-22-75,

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

1 *Formerly 25-9.02, Amended 1-25-09, _____.*

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1 **25-9.051 Definitions.**

2 For the purposes of Rules 25-9.051 through 25-9.071, F.A.C., ~~these rules~~ the following
3 definitions shall apply:

4 (1) "Commission" refers to the Florida Public Service Commission.

5 (2) "Utility" ~~refers~~ applies to the municipal electric utilities and rural electric cooperatives
6 subject to the jurisdiction of this Commission pursuant to Section 366.04(2), F.S. ~~except~~
7 ~~where a different meaning clearly appears from the context.~~

8 (3) "Rate" refers to the price or charge for utility service.

9 (4) "Rate schedules" refer to the rate for a particular classification of service and the
10 provisions necessary for billing, including all special terms and conditions under which
11 service shall be furnished at such rate or charge.

12 (5) "Contracts and agreements" refer to the special contracts entered into by the utility for the
13 sale of electricity to consumers in a manner or subject to provisions not specifically covered
14 by its submitted rate schedules.

15 (6) "Documentation" ~~refers~~ applies to the assembled volume containing the materials required
16 by Rules 25-9.054 through 25-9.071, F.A.C. ~~rate schedules, contracts and agreements and~~
17 ~~other materials required by these rules.~~

18 (7) "Rate structure" refers to the classification system used in justifying different rates ~~and,~~
19 ~~more specifically, to the rate relationship~~ between various customer classes, ~~as well as the rate~~
20 ~~relationship between members of a customer class.~~

21 (8) "Customer class" refers to any group of customers distinguishable from other customers by
22 load, consumption or other characteristic.

23 *Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b) FS. History—New 8-9-79,*
24 *Amended 5-3-83 _____, Formerly 25-9.51.*

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from existing law.

1 **25-9.052 General Filing Submittal Instructions.**

2 (1) Each utility shall ~~submit to the Commission~~ file with the Commission documentation as
3 ~~defined in Rule 25-9.051(6), F.A.C.~~ documentation of all territory and customers served by it.

4 (2) All supplements, revisions, modifications or changes to the documentation shall be filed
5 with the Commission Clerk ~~submitted to the Commission in quadruplicate and in the form~~
6 ~~prescribed herein~~ at least 30 days prior to ~~final~~ adoption by the utility. All materials filed with
7 the Commission Clerk ~~submitted to the Commission pursuant to subsection (1) of this rule~~
8 will be reviewed for compliance with Rules 25-9.051 through 25-9.071, F.A.C., and retained
9 in the Commission's files. ~~After review, a letter indicating the Commission receipt of or~~
10 ~~comments on the utility's proposed rate structure will be transmitted to the utility. The~~
11 ~~comment letter may contain a request for data or explanation of the basis for any change in the~~
12 ~~utility's rate structure.~~

13 (3) All documentation filed with the Commission Clerk shall be accompanied by a list of the
14 materials being filed. ~~After reviewing Commission comments and adopting a final rate~~
15 ~~structure, the utility shall submit the adopted rate structure to the Commission, along with any~~
16 ~~response to the Commission's comment letter. The Commission will acknowledge these~~
17 ~~filings.~~

18 (4) When a utility's documentation reflects a proposed change in rate structure, the utility shall
19 provide information to support the change in rate structure. ~~In the event the Commission~~
20 ~~determines that the rate structure of a utility may not be fair, just and reasonable, the~~
21 ~~Commission may initiate appropriate proceedings to prescribe a rate structure that is fair, just~~
22 ~~and reasonable. In so doing the Commission may, among other things, consider the cost of~~
23 ~~providing service to each customer class, as well as the rate history, value of service and~~
24 ~~experience of the utility, the consumption and load characteristics of the various classes of~~
25 ~~customers and the public acceptance of rate structures. The following principles may also be~~

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1 considered: ~~simplicity, freedom from controversy, rate stability, fairness in apportioning costs,~~
2 ~~avoidance of undue discrimination and encouragement of efficiency.~~

3 ~~(5) All documented materials filed with the Commission shall be accompanied by a letter~~
4 ~~listing the sheets being transmitted. The filing shall be acknowledged if the letter is sent in~~
5 ~~duplicate with a request for acknowledgement.~~

6 *Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b) FS. History—New 8-9-79,*
7 *Amended 5-3-83, _____ . Formerly 25-9.52.*

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1 **25-9.053 Filing and Evaluation of Filings Submittals.**

2 (1) A change to a utility's rate structure must meet one of the following criteria: (a) is cost
3 based; (b) has historical precedent; (c) embodies pricing concepts previously approved by the
4 Commission; or (d) is not unduly discriminatory. Each letter transmitting a utility's proposed
5 documentation in which any change in rate structure is proposed shall be accompanied by
6 supporting information in sufficient detail as to allow the Commission to determine the
7 derivation of all rate structure modifications. The supporting information shall consist of either
8 a utility-specific cost study or an analysis of utility-specific cost and operating data prepared
9 using a methodology previously approved by the Commission for any comparable utility. All
10 additional relevant information deemed necessary by the Commission shall be submitted in
11 addition to the above request.

12 (2) After review of the utility's proposed change in rate structure, staff will send written
13 notification to the utility indicating: (a) administrative approval of the documentation or (b)
14 how the proposed rate structure is inconsistent with the criteria listed in subsection (1) of this
15 rule. Upon receipt of the staff notification, the utility shall file an alternative proposed rate
16 structure addressing staff's concerns or file a statement that the utility disagrees with the staff
17 determination of inconsistency and requesting the Commission to consider the proposed rate
18 structure as filed. If the utility does not submit such supporting information the Commission
19 shall evaluate the proposed change in rate structure on the basis of cost and operating data
20 from one or more comparably situated public electric utilities which the Commission
21 determines to be most similar to the filing utility. Data from the comparable utilities shall be
22 considered in conjunction with all submitted information which is specific to the filing utility.
23 (3) If the Commission finds the proposed rate structure inconsistent with subsection (1), the
24 Commission shall direct the utility to file a rate structure that is consistent with the criteria in
25 subsection (1) of this rule.

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1 *Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b), FS. History—New 8-9-79,*

2 *Formerly 25-9.53, Amended 1-17-93, _____.*

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1 **25-9.001 Application and Scope.**

2 ~~(1) The provisions of Rules 25-9.002 through 25-9.045, F.A.C., Parts I, II and III of these~~
3 ~~rules shall only apply to public utilities as defined in Rule subsection 25-9.002(2), F.A.C.,~~
4 ~~and the provisions of Rules 25-9.051 through 25-9.071, F.A.C., Parts IV and V of these rules~~
5 ~~shall only apply to municipalities and cooperatives as defined in Rule subsection 25-9.051(2),~~
6 ~~F.A.C. The provisions of this chapter shall not apply to Interexchange Companies, Pay~~
7 ~~Telephone Service Companies, Shared Tenant Service Companies, Operator Service Provider~~
8 ~~Companies, Alternative Access Vendor Service Providers, Competitive Local Exchange~~
9 ~~Companies, or Local Exchange Companies.~~

10 ~~(2) The following shall prescribe the procedures to be used by public utilities in filing:~~

11 ~~(a) Rules and Regulations.~~

12 ~~(b) Rate Schedules.~~

13 ~~(c) Standard Forms and Riders.~~

14 ~~(d) Contracts and Agreements.~~

15 ~~(e) Tariffs.~~

16 ~~(3) No rules and regulations, or schedules of rates and charges, or modifications or revisions~~
17 ~~of the same, shall be effective until filed with and approved by the Commission as provided by~~
18 ~~law.~~

19 ~~(4) Upon acceptable showing by any utility, the Commission may waive or modify, as to that~~
20 ~~utility, the provisions of any rule herein contained, except when such provisions are fixed by~~
21 ~~statute.~~

22 ~~(5) No deviation from these rules shall be permitted unless authorized in writing by the~~
23 ~~Commission.~~

24 *Rulemaking Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 366.04(2)(b),*
25 *366.05(1), 367.091, 367.101 FS. History—New 1-8-75, Repromulgated 10-22-75, Amended 8-*

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NOTICE OF WORKSHOP
UNDOCKETED
PAGE 4

1 9-79, Formerly 25-9.01, Amended 2-23-86, 1-8-95, 1-25-09, _____.

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1 **25-9.002 Definitions.**

2 For the purposes of Rules 25-9.002 through 25-9.045, F.A.C., ~~these regulations~~ the following
3 definitions shall apply:

4 (1) The word “Commission” refers to the Florida Public Service Commission.

5 (2) ~~Except where a different meaning clearly appears from the context,~~ The word or words
6 “utility” or “public utility” as used in these rules shall mean and include all electric and gas
7 utilities, water systems, and wastewater systems, which are, or may hereafter be, subject to
8 the rate jurisdiction of this Commission.

9 (3) The term “rules” and/or “regulations” refers to the general practices followed by the utility
10 in carrying on its business with its customers and includes the rules, practices, classifications,
11 exceptions and conditions observed by the utility in supplying service.

12 (4) The term “rate” refers to the price or charge for utility service.

13 (5) The term “rate schedule” refers to the rate or charge for the particular classification of
14 service plus the several provisions necessary for billing, including all special terms and
15 conditions under which service shall be furnished at such rate or charge.

16 (6) The term “standard forms” means and includes all standard contract or agreement forms
17 for execution between the utility and its customers.

18 (7) “Contracts and agreements” shall refer to special contracts entered into by the utility for
19 the sale of commodities ~~commodity~~ or services in a manner or subject to provisions not
20 specifically covered by its filed standard rate schedules.

21 (8) The term “tariff” shall refer to the assembled volume containing the “rules,” “regulations,”
22 “rate schedules,” “standard forms,” “contracts,” and other material required by these
23 regulations as filed with the Commission.

24 *Rulemaking Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented*

25 *366.05(1), 367.081, 367.091, 367.101, 367.021 FS. History—New 1-8-75, Repromulgated 10-*

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1 22-75, Formerly 25-9.02, Amended 1-25-09, _____.

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1 **25-9.050 Application and Scope.**

2 ~~(1) The following rules apply only to municipal electric utilities and rural electric cooperatives~~
3 ~~and prescribe the procedure to be followed by such utilities in submitting documentation of:~~

4 ~~(a) Rate Schedules~~

5 ~~(b) Contracts and Agreements~~

6 ~~(2) Upon acceptable showing by the utility, the Commission may waive or modify, as to that~~
7 ~~utility, the provisions of any rule herein contained, except when such provisions are fixed by~~
8 ~~statute.~~

9 ~~(3) No deviation from these rules shall be permitted unless authorized in writing by the~~
10 ~~Commission.~~

11 *Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b) FS. History—New 8-9-79,*
12 *Formerly 25-9.50, Repealed _____.*

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1 **25-9.051 Definitions.**

2 For the purposes of Rules 25-9.051 through 25-9.071, F.A.C. ~~these rules~~ the following
3 definitions shall apply:

4 (1) "Commission" refers to the Florida Public Service Commission.

5 (2) "Utility" refers ~~applies~~ to the municipal electric utilities and rural electric cooperatives
6 subject to the jurisdiction of this Commission pursuant to Section 366.04(2), F.S. ~~except~~
7 ~~where a different meaning clearly appears from the context.~~

8 (3) "Rate" refers to the price or charge for utility service.

9 (4) "Rate schedules" refer to the rate for a particular classification of service and the
10 provisions necessary for billing, including all special terms and conditions under which
11 service shall be furnished at such rate or charge.

12 (5) "Contracts and agreements" refer to the special contracts entered into by the utility for the
13 sale of electricity to consumers in a manner or subject to provisions not specifically covered
14 by its submitted rate schedules.

15 (6) "Documentation" refers ~~applies~~ to the assembled volume containing the materials required
16 by Rules 25-9.054 through 25-9.071, F.A.C. ~~rate schedules, contracts and agreements and~~
17 ~~other materials required by these rules.~~

18 (7) "Rate structure" refers to the classification system used in justifying different rates ~~and,~~
19 ~~more specifically, to the rate relationship between various customer classes, as well as the rate~~
20 ~~relationship between members of a customer class.~~

21 (8) "Customer class" refers to any group of customers distinguishable from other customers by
22 load, consumption or other characteristic.

23 *Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b) FS. History—New 8-9-79,*
24 *Amended 5-3-83 _____, Formerly 25-9.51.*

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1 **25-9.052 General Filing Submittal Instructions.**

2 (1) Each utility shall ~~submit to the Commission~~ file with the Commission documentation as
3 defined in Rule 25-9.051(6), F.A.C. ~~documentation of all territory and customers served by it.~~

4 (2) All supplements, revisions, modifications or changes to the documentation shall be filed
5 with the Commission Clerk ~~submitted to the Commission in quadruplicate and in the form~~
6 ~~prescribed herein~~ at least 30 days prior to ~~final~~ adoption by the utility. All materials filed with
7 the Commission Clerk ~~submitted to the Commission pursuant to subsection (1) of this~~
8 rule will be reviewed for compliance with Rules 25-9.051 through 25-9.071, F.A.C., and
9 retained in the Commission's files. ~~After review, a letter indicating the Commission receipt of~~
10 ~~or comments on the utility's proposed rate structure will be transmitted to the utility. The~~
11 ~~comment letter may contain a request for data or explanation of the basis for any change in the~~
12 ~~utility's rate structure.~~

13 (3) All documentation filed with the Commission Clerk shall be accompanied by a list of the
14 materials being filed. ~~After reviewing Commission comments and adopting a final rate~~
15 ~~structure, the utility shall submit the adopted rate structure to the Commission, along with any~~
16 ~~response to the Commission's comment letter. The Commission will acknowledge these~~
17 ~~filings.~~

18 (4) When a utility's documentation reflects a proposed change in rate structure, the utility shall
19 provide information to support the change in rate structure. ~~In the event the Commission~~
20 ~~determines that the rate structure of a utility may not be fair, just and reasonable, the~~
21 ~~Commission may initiate appropriate proceedings to prescribe a rate structure that is fair, just~~
22 ~~and reasonable. In so doing the Commission may, among other things, consider the cost of~~
23 ~~providing service to each customer class, as well as the rate history, value of service and~~
24 ~~experience of the utility, the consumption and load characteristics of the various classes of~~
25 ~~customers and the public acceptance of rate structures. The following principles may also be~~

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1 | ~~considered: simplicity, freedom from controversy, rate stability, fairness in apportioning costs,~~
2 | ~~avoidance of undue discrimination and encouragement of efficiency.~~

3 | ~~(5) All documented materials filed with the Commission shall be accompanied by a letter~~
4 | ~~listing the sheets being transmitted. The filing shall be acknowledged if the letter is sent in~~
5 | ~~duplicate with a request for acknowledgement.~~

6 | *Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b) FS. History—New 8-9-79,*
7 | *Amended 5-3-83, _____ . Formerly 25-9.52.*

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1 **25-9.053 Filing and Evaluation of Filings Submittals.**

2 (1) A change to a utility's rate structure must meet one of the following criteria: (a) is cost
3 based; (b) has historical precedent; (c) embodies pricing concepts previously approved by the
4 Commission; or (d) is not unduly discriminatory. Each letter transmitting a utility's proposed
5 documentation in which any change in rate structure is proposed shall be accompanied by
6 supporting information in sufficient detail as to allow the Commission to determine the
7 derivation of all rate structure modifications. The supporting information shall consist of either
8 a utility specific cost study or an analysis of utility specific cost and operating data prepared
9 using a methodology previously approved by the Commission for any comparable utility. All
10 additional relevant information deemed necessary by the Commission shall be submitted in
11 addition to the above request.

12 (2) After review of the utility's proposed change in rate structure, staff will send written
13 notification to the utility indicating: (a) administrative approval of the documentation or (b)
14 how the proposed rate structure is inconsistent with the criteria listed in subsection (1) of this
15 rule. Upon receipt of the staff notification, the utility shall file an alternative proposed rate
16 structure addressing staff's concerns or file a statement that the utility disagrees with the staff
17 determination of inconsistency and requesting the Commission to consider the proposed rate
18 structure as filed. If the utility does not submit such supporting information the Commission
19 shall evaluate the proposed change in rate structure on the basis of cost and operating data
20 from one or more comparably situated public electric utilities which the Commission
21 determines to be most similar to the filing utility. Data from the comparable utilities shall be
22 considered in conjunction with all submitted information which is specific to the filing utility.

23 (3) If the Commission finds the proposed rate structure inconsistent with subsection (1), the
24 Commission shall direct the utility to file a rate structure that is consistent with the criteria in
25 subsection (1) of this rule.

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1 *Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b), FS. History—New 8-9-79,*
2 *Formerly 25-9.53, Amended 1-17-93, _____.*
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FLORIDA PUBLIC SERVICE COMMISSION

AGENDA

STAFF WORKSHOP

UNDOCKETED

Undocketed - Proposed amendments to Rule 25-9.001, Application and Scope, Rule 25-9.002, Definitions, Rule 25-9.050, Application and Scope, Rule 25-9.051, Definitions, Rule 25-9.052, General Submittal Instructions, and Rule 25-9.053, Filing and Evaluation of Submittals

June 9, 2015, at 1:30 p.m.
Gunter Building, Room 105
2540 Shumard Oaks Boulevard
Tallahassee, Florida 32399-0850

1. Staff overview of draft rule
2. Comments and alternative suggestions from interested persons
3. Discussion of suggested changes and timeframes for next steps
4. Adjournment