

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 20170222-WS

PROPOSED AMENDMENT OF  
RULES 25-30.130, RECORD OF  
COMPLAINTS, AND 25-30.355,  
COMPLAINTS, F.A.C.

\_\_\_\_\_ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA  
ITEM NO. 2

COMMISSIONERS  
PARTICIPATING: CHAIRMAN ART GRAHAM  
COMMISSIONER JULIE I. BROWN  
COMMISSIONER DONALD J. POLMANN  
COMMISSIONER GARY F. CLARK

DATE: Tuesday, February 6, 2018

PLACE: Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY: ANDREA KOMARIDIS  
Court Reporter and  
Notary Public in and for  
the State of Florida at Large

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1 P R O C E E D I N G S

2 CHAIRMAN GRAHAM: All right. Let's go back  
3 around to the top, Item No. 2.

4 MS. COWDERY: Good morning, Commissioners.  
5 Kathryn Cowdery with the Office of General Counsel.

6 Item 2 is the proposed amendment of two water  
7 and wastewater rules, the complaint rule and the  
8 record-of-complaints rule. This item was deferred  
9 from the December 12th, 2017, agenda at the  
10 Commission's request in order for staff to modify  
11 the draft amended language for the complaints rule.

12 Staff was directed to add language that a  
13 utility shall give a customer verbal or written  
14 acknowledgment of the utility's receipt of the  
15 customer's complaint no later than three days after  
16 it receives the complaint.

17 In addition, the draft rule that we brought to  
18 you in December stated that a utility shall  
19 investigate a complaint and give the customer a  
20 verbal or written response no later than 15 working  
21 days after it receives the complaint.

22 Staff was directed to change that language  
23 from 15 working days to 15 days. These changes  
24 have been made and are shown on Page 10 of the  
25 staff recommendation.

1 Staff is available to answer any questions.

2 CHAIRMAN GRAHAM: Okay. Rhonda -- I mean,  
3 more people know you in this building than most  
4 other people. Where is your name card?

5 MS. HICKS: They never gave me one.

6 (Laughter.)

7 CHAIRMAN GRAHAM: Mr. Baez? Braulio.

8 MR. BAEZ: I'm sorry, Mr. Chairman.

9 CHAIRMAN GRAHAM: I -- I believe you -- I  
10 believe you have --

11 MR. BAEZ: I, too, do not have my name card.

12 CHAIRMAN GRAHAM: One -- one of your staff is  
13 looking for a name card.

14 MR. BAEZ: Besides me.

15 MS. HICKS: I didn't say it.

16 (Laughter.)

17 MR. BAEZ: Thank you, sir.

18 CHAIRMAN GRAHAM: I just -- you know, we've  
19 got new Commissioners coming on board, and just  
20 want to make sure everybody --

21 MR. BAEZ: Duly -- duly noted, sir.

22 CHAIRMAN GRAHAM: Thank you.

23 All right. Commissioner Polmann.

24 COMMISSIONER POLMANN: Thank you,  
25 Mr. Chairman.

1           I -- I noticed general counsel's office is  
2           missing a few name cards, too, but -- I -- I  
3           reviewed this item with staff. And I'm -- I'm  
4           thinking back to the discussion the Commission had  
5           at our last meeting and -- and caused this item to  
6           be deferred.

7           And I'm reviewing -- in reviewing the language  
8           that staff brought forward for this meeting,  
9           considering the changes that were made, I -- I  
10          would like to bring forward a couple of points and  
11          ask the Commission to consider, perhaps, a -- a  
12          couple of additional changes because I'm wondering  
13          if the language that was proposed by the staff  
14          fully addresses the intent that we discussed.

15          So, I've worked with staff, and I would like  
16          to hand out suggested additions and -- and a --  
17          quite frankly, a couple of changes.

18          So, I have a --

19          CHAIRMAN GRAHAM: Hold on a second. Does --  
20          does staff have this?

21          COMMISSIONER POLMANN: -- a strike-through and  
22          a markup. We have provided to staff this new  
23          language.

24          Mr. Chairman, I would suggest maybe we take a  
25          few minutes -- I don't -- I don't know if you would

1           like to take a break here and let us read through  
2           this and, then, after we have a chance to do that,  
3           we may ask for legal to give us some suggestions on  
4           how to proceed --

5                   CHAIRMAN GRAHAM:  Let's -- let's --

6                   COMMISSIONER POLMANN:  -- on this.

7                   CHAIRMAN GRAHAM:  Let's just lay this Item  
8           No. 2 on the table, and we'll come back around to  
9           it after Item No. 15 and before Item No. 17.

10                  COMMISSIONER POLMANN:  Okay.  And then, when  
11           we do that, I can explain for the Commission what  
12           my thinking is on this.

13                  CHAIRMAN GRAHAM:  Okay.  I just want to make  
14           sure staff has got a copy of this and is reading  
15           through it.

16                  Okay.  We'll come back to that one.

17                                   \* \* \* \* \*

18                  CHAIRMAN GRAHAM:  This brings us back around  
19           to Item No. 2.  I take it staff has had the chance  
20           to read through Commissioner Polmann's proposed  
21           changes?

22                  MS. COWDERY:  Chairman Graham, I would say  
23           Comm- -- staff would not have a recommendation at  
24           this time on these alternatives.  If the Commission  
25           is interested in pursuing this concept, I would

1 suggest that we defer this item to allow staff an  
2 opportunity to get input from utilities, from the  
3 regulated industry, either through possibly a  
4 workshop or just a staff data request.

5 There is some language in here that might  
6 require a -- talking to JAPC to determine if they  
7 have any concerns about it, you know, because there  
8 are some, you know, additional requirements in  
9 here. So, that's sort of, I think, where we are  
10 now.

11 CHAIRMAN GRAHAM: Commissioner Polmann.

12 COMMISSIONER POLMANN: Thank you,  
13 Mr. Chairman.

14 The issue I -- I would like to identify for  
15 the -- for the Commission, which I took from our  
16 last discussion, was the responsibility of the  
17 utility to acknowledge and to respond to inquiries  
18 from their customers.

19 And this arose in the context of a complaint  
20 and the -- and the time frame in which the utility  
21 was to acknowledge the complaint, respond to the  
22 complaint, record the complaint, and so forth and,  
23 in fact, what -- what was the meaning of the word  
24 "complaint."

25 And in the definition of -- of the word

1 "complaint," the phrase at -- at the end -- and  
2 this is not line-numbered, but -- what -- what, in  
3 my proposed revision, is -- become Paragraph No. 3,  
4 the word "complaint" -- the phrasing at the end of  
5 that paragraph that says "requires action by the  
6 utility," within this definition -- and the word  
7 "complaint" is used throughout.

8 My concern was that it's up to the utility,  
9 upon receiving a complaint -- that it's within  
10 their discretion to determine whether action is  
11 required. And if they receive an inquiry, a  
12 complaint, anything from the utility -- if they  
13 decide that no action is required, then, in fact,  
14 they don't need to acknowledge, they don't need to  
15 record, they don't need to respond to the customer,  
16 if they decide that no action is required. And I  
17 don't believe that that was our intent.

18 So, I have suggested, in my discussions  
19 with -- with staff, that, in fact, any contact, any  
20 inquiry from a customer should be acknowledged,  
21 regardless of whether the utility believes that  
22 affirmative action is required because, if the  
23 utility makes a self-determination that they don't  
24 need to take an action in the field, they should at  
25 least respond to the customer in a way that -- that

1           says that -- that identifies, well, we don't  
2           believe an action is required; yes, we acknowledge  
3           that you've contacted us.

4           But if it's something that can be dealt with  
5           on the phone or they can explain something, rather  
6           than just, in some way -- I don't want to say  
7           ignoring, but not taking a proactive step in -- and  
8           meeting with the customer, going through their  
9           home -- the customer may be left expecting  
10          something; not receiving it for a week or two or  
11          whatever. And then, they'll end up contacting us,  
12          which I understand, in my conversations with staff,  
13          does occasionally happen -- or has happened.

14          And I've suggested this re-way -- rewrite in  
15          Paragraph 1 to make it clear that we want the  
16          utility to respond -- to acknowledge and then  
17          respond. And then the rest of us -- the rest of  
18          this is reworded to include a -- a new definition  
19          for "inquiry."

20          So, if you -- if I'm a customer, I make a  
21          contact with the water, wastewater utility, I would  
22          like that to be acknowledged. And in fact, if they  
23          don't -- if they don't believe that an action is  
24          required, I would like the courtesy for them to  
25          tell me that they're not coming to my house,



1           they're going to deal with this over the phone,  
2           whatever the case may be.

3                     That was my intention, Commissioners.

4                     CHAIRMAN GRAHAM: Well, I think this is the  
5           best way to handle this. There is no time  
6           constraints on this. So, deferring it is not a  
7           problem. We have an IA coming up on February the  
8           20th.

9                     So, if Mr. Polmann -- Commissioner Polmann, if  
10          you and staff will get together and walk through  
11          what it is you're looking for and what it is that  
12          they're willing to do, and we can have more of a  
13          open round table discussion in IA on the 20th, and  
14          we can bring something back to vote on in March.

15                    Yes, Commissioner Clark.

16                    COMMISSIONER CLARK: Chairman, doesn't this  
17          have to go back through the administrative  
18          procedures before it can come back to us again?  
19          Don't you have to go back through the hearings  
20          process?

21                    MS. COWDERY: Commissioner Clark, there is no  
22          requirement to revise a SERC. There is no  
23          requirement, per se, to do that. It's -- it's sort  
24          of up to our determination if we think that it  
25          would be a good idea to get additional input from

1 the regulated utilities.

2 CHAIRMAN GRAHAM: Commissioner Brown.

3 COMMISSIONER BROWN: Thank you.

4 And I want to thank Commissioner Polmann for  
5 coming up with this. You've definitely furthered  
6 the discussion that we had when we took this up. I  
7 actually have no problem with 95 percent of the  
8 proposed language.

9 I'm curious -- the utilities are sitting here  
10 today, representatives from the largest utility in  
11 Florida, regulated. I'm assuming you would like  
12 more time to look at this.

13 CHAIRMAN GRAHAM: They're here for Key West.

14 COMMISSIONER BROWN: Oh, they're here for Key  
15 West.

16 MR. FRIEDMAN: No. No, I'm here on this item  
17 as well because of the change. We -- we were --  
18 Marty Friedman, Friedman & Friedman, on behalf of  
19 Utilities, Inc., of Florida.

20 And just like Commissioner Brown mentioned, we  
21 would just like an opportunity to review it and see  
22 how it may impact on the way we do business today.  
23 The -- the prior rule was consistent with the way  
24 Utilities, Inc., of Florida does business, handles  
25 its complaints, but I do -- would like an

1 opportunity to run these changes by the utility to  
2 make sure that there was nothing that was going to  
3 require them to do something different or, if it is  
4 different, to evaluate what the cost is of that  
5 addition.

6 COMMISSIONER BROWN: Well, I support the  
7 Chairman's deferral on it, and we'll take it up.

8 CHAIRMAN GRAHAM: I mean, we don't have to  
9 bring it up in March, if we're not ready in March,  
10 but I think we should have a discussion on it at IA  
11 on the 20th, and we can kind of come up with a game  
12 plan from there.

13 Commissioner -- I mean --

14 MR. BAEZ: Mr. Chairman --

15 CHAIRMAN GRAHAM: Yes.

16 MR. BAEZ: I beg your indulgence. I would  
17 like to talk to legal staff and -- and see if IA is  
18 the appropriate forum to -- to discuss the -- the  
19 rules. I just want to make sure that it's okay  
20 to -- to do that.

21 And if we can have that discussion here, now,  
22 that would be all right.

23 MS. HELTON: Ms. Cibula is suggesting that we  
24 have maybe a staff workshop, and then if  
25 Commissioners wanted to participate at the staff

1 workshop, that we do that.

2 What -- what concerns me is we have a docketed  
3 matter. And addressing that at agenda [sic] --  
4 that's not our -- that's not normally how we  
5 separate --

6 CHAIRMAN GRAHAM: Addressing it at IA, you  
7 mean?

8 MR. BAEZ: Yeah.

9 MS. HELTON: I mean -- I'm sorry -- at IA.

10 MR. BAEZ: That was -- that was my concern.  
11 Lord knows, I don't want to say no, but --

12 CHAIRMAN GRAHAM: Well, while we have this  
13 teed up, when do you foresee the staff workshop?

14 MS. HELTON: Perhaps, it could be the day of  
15 IA. I think we have enough time to -- to notice it  
16 for that day.

17 (Discussion off the record.)

18 MS. HELTON: I'm off on my timing. Under  
19 Chapter 120 for a staff development rule workshop,  
20 we need a two-week notice, and I don't know that we  
21 can meet that for the 20th, but perhaps, we could  
22 do it close to the -- to the next time that you're  
23 here?

24 CHAIRMAN GRAHAM: Close to the next --

25 MR. BAEZ: That would be March 1st.

1           CHAIRMAN GRAHAM: You need two weeks, which is  
2 actually the 20th, which is the IA we were talking  
3 about.

4           MS. HELTON: But you have to file it with the  
5 FAR. And then, the day you file it, then it gets  
6 published the next day. So, it's -- the two-week  
7 notice doesn't always equal out to what you think  
8 the two weeks might be.

9           CHAIRMAN GRAHAM: So, you're looking the week  
10 of the 27th? Because our next meeting here is  
11 March 1st.

12          MS. HELTON: I don't have a calendar in front  
13 of me, but we can certainly --

14          MR. BAEZ: If -- if we can -- if we can leave  
15 it as soon as practicable -- I mean, think we  
16 can --

17          CHAIRMAN GRAHAM: Well, I just figured, we  
18 have it -- we're teed up, just in case somebody  
19 happens to be watching right now.

20          MR. BAEZ: I appreciate that, yes.

21          CHAIRMAN GRAHAM: So, they'll have a rough  
22 idea of, you know, when they need to get plugged  
23 back in to what staff is doing or what we're trying  
24 to accomplish.

25                 So, we can do it that week. We don't

1 necessarily have to specifically pick a day today.

2 MR. BAEZ: We'll --

3 MR. HETRICK: Yes, we can --

4 MR. BAEZ: We'll -- we'll look at a date.

5 MR. HETRICK: -- that week.

6 CHAIRMAN GRAHAM: Okay. So, we'll do it the  
7 week of February 27th.

8 And then something will come back before us,  
9 maybe not in March, but April?

10 MR. HETRICK: Yes.

11 CHAIRMAN GRAHAM: Okay. Commissioner Clark.

12 COMMISSIONER CLARK: Is this a staff workshop  
13 or a Commission workshop?

14 CHAIRMAN GRAHAM: It's a staff workshop, but  
15 it will be noticed that Commissioners can show up,  
16 and we'll make sure we make those notice because  
17 there may possibly be more than just Commissioner  
18 Polmann being there.

19 MR. BAEZ: Yes, sir.

20 MR. HETRICK: Yes.

21 CHAIRMAN GRAHAM: Okay. Well, then that item,  
22 No. 2, is deferred.

23 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, ANDREA KOMARIDIS, Court Reporter, do hereby  
certify that the foregoing proceeding was heard at the  
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IT IS FURTHER CERTIFIED that I  
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attorney or counsel connected with the action, nor am I  
financially interested in the action.

DATED THIS 15th day of February, 2018.



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ANDREA KOMARIDIS  
NOTARY PUBLIC  
COMMISSION #GG060963  
EXPIRES February 9, 2021

Alternative language to draft 25-30.355 from staff recommendation. Alternative language shown in bold

25-30.355 Complaints.

(1) A utility shall give a customer verbal or written acknowledgment of the utility's receipt of any customer complaint or inquiry no later than three days of such contact. ~~the customer's complaint no later than three days after it receives the complaint.~~ The utility shall specify in its acknowledgment whether any additional action, including the type of action, will be taken on the issue(s) raised by the customer. ~~A utility shall make a full and prompt acknowledgement and investigation of all customer complaints and shall respond fully and promptly to all customer requests.~~

(2) A utility shall investigate a complaint and give the customer a verbal or written response no later than 15 days after it receives the complaint.

(3)(2) ~~For the purpose of this rule~~ The word "complaint" as used in this rule means shall mean an objection made to the utility by a the customer by telephone call, by e-mail, by letter, at the utility's place of business, or on the utility's website form as to the utility's charges, facilities, or service, that where the disposal of the complaint requires action by on the part of the utility.

(4) The word "inquiry" as used in this rule means a request for clarification or information made to the utility by a customer by telephone call, by e-mail, letter, at the utility's place of business, or on the utility's website form as to the utility's charges, facilities, or service, that may require action by the utility.

(5)(3) Each utility shall have a procedure for receiving and promptly responding to emergency calls 24 hours a day. Examples of emergencies shall include reports of water or wastewater main breaks or conditions caused by utility-owned facilities where property damage or personal injury is reasonably foreseeable shall be considered an emergency. Replies to



~~inquiries by the Commission's staff shall be furnished within fifteen (15) days from the date of the inquiry and shall be in writing, if requested.~~

*Rulemaking Authority 350.127(2), 367.0812(5), 367.121(1) FS. Law Implemented 367.0812(1), 367.111, 367.121(1) FS. History—New 9-12-74, Formerly 25-10.70, 25-10.070, Amended 11-10-86, \_\_\_\_\_.*

Final version of draft 25-30.355 with alternative language

25-30.355 Complaints.

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