

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

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

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**DATE:** August 6, 2020  
**TO:** Dorothy E. Menasco, Commission Deputy Clerk II, Office of Commission Clerk  
**FROM:** Kathryn G.W. Cowdery, Senior Attorney, Office of the General Counsel *KC*  
**RE:** Docket No. 20200186-EU

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Please file the attached document in the above-named docket.

Please contact me at [kcowdery@psc.state.fl.us](mailto:kcowdery@psc.state.fl.us) if you have any questions. Thank you.

KGWC

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## STATE OF FLORIDA



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# Public Service Commission

January 30, 2020

Jamie Jackson  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

via e-mail

**Re: Existing Rule Review, Public Service Commission Rules 25-6.047, .054, .061, .062, .074, .075, .081, .082, and .104**

Dear Ms. Jackson:

By letter of March 12, 2019, you requested review of some of the Commission's rules in Chapter 25-6, F.A.C. In my June 28, 2019 response letter, I informed you that Commission staff had reviewed the rules and that some of the rules identified in your March 12, 2019 letter did not need amendment. For the other rules, which are referenced above, I informed you that Commission staff had determined that amendments either might be or were needed and that rulemaking would be initiated sometime in 2019 or early 2020. This letter is an update on our review of the above-referenced rules. Your March 12, 2019 comments and our updated response for each of the above-referenced rules are as follows:

**25-6.047:** Please review and advise whether updates are needed to this rule, which has not been amended since adoption in 1969.

**Response:** Commission staff has reviewed this rule and determined that this rule may be repealed as obsolete. Staff anticipates that rulemaking will be initiated in early 2020.

**25-6.054(4):** It is unclear from the rule text if there is a specific period in which the historical performance records referenced in this subsection must be maintained. Please advise if there is another relevant record retention rule applicable in this scenario. If not, it appears that this information should be included in the rule to ensure comprehension and compliance.

**Response:** Commission staff has reviewed this rule and determined that this rule needs to be amended to address the issue raised in your comments. Staff anticipates that rulemaking will be initiated in early 2020. A copy of the draft amended rule is attached.

**25-6.061:** Please review and advise whether updates are needed to this rule, which has not been amended since adoption in 1969.

**Response:** Commission staff has reviewed this rule and determined that this rule does not need to be amended.

**25-6.062:** Please review and advise whether updates are needed to this rule, which has not been amended since adoption in 1969.

**Response:** Upon further review of this rule, Commission staff made a technical change to the rule and determined that this rule does not need to be amended.

**25-6.074:** Please review and advise as to the necessity of this rule entitled, “Applicability,” in light of the definition of a rule pursuant to section 120.52(16), Florida Statutes.

**Response:** Commission staff has reviewed this rule and determined that this rule may be amended to delete unnecessary and obsolete language. Staff anticipates that rulemaking will be initiated in early 2020. A copy of the draft rule is attached.

**25-6.075:** It is unclear how this rule’s language specifically implements section 366.03, Florida Statutes, which is cited as the sole law implemented by its content. Please review and revise as necessary.

**Response:** Sections 366.04(6); 366.041(1) and (4); 366.04(1), (2)(f), (4); 366.05(1); and 366.06(1), F.S., have been added to the Law Implemented section, and section 350.127(2), F.S., has been added to the Rulemaking Authority section. Commission staff has reviewed this rule and determined that it does not need to be amended because the applicable law implemented is now identified.

**25-6.081:** Please review and advise as to the necessity of this rule entitled, “Construction Practices,” in light of the definition of a rule pursuant to section 120.52(16), Florida Statutes. It is unclear how this rule’s language specifically implements the cited statute, as it appears to contain undefined goals without setting forth definitions, standards, or how compliance is to be determined. See § 120.52(8)(d), Fla. Stat. (2018).

**Response:** Commission staff has reviewed this rule and determined that it may be repealed as obsolete. As stated in my June 28, 2019 letter to you, this rule was included in a Notice of Development of Rulemaking published in the June 7, 2019, edition of the Florida Administrative Register. Commission staff plans to bring this rule to the Commission for proposed repeal at the same time as the other five rules identified for repeal or amendment in this letter.

Ms. Jamie Jackson  
January 30, 2020  
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**25-6.082:** It is unclear from the rule text if there is a specific period in which the records referenced in subsections (1) and (2) of this rule must be maintained. Please advise if there is another relevant record retention rule applicable in this scenario. If not, it appears that this information should be included in the rule to ensure comprehension and compliance.

**Response:** Commission staff has reviewed this rule and determined that this rule may be repealed as obsolete. Staff anticipates that rulemaking will be initiated in early 2020.

**25-6.104:** It is unclear from the rule how the Commission would determine whether an estimated charge is “reasonable” for the situation set forth in this rule. *See* § 120.52(8)(d), Fla. Stat. (2018). Please review and advise.

**Response:** Commission staff has reviewed this rule and determined that this rule needs to be amended to address your comments. Staff anticipates that rulemaking will be initiated in early 2020. A copy of the draft amended rule is attached.

Please contact me at 850-413-6216 or [kcowdery@psc.state.fl.us](mailto:kcowdery@psc.state.fl.us) if you have any questions or concerns. Thank you.

Sincerely,

Kathryn G.W. Cowdery  
Senior Attorney

KGWC  
Cc: Commission Clerk