

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed adoption of Rule 25-18.010,
F.A.C., Pole Attachment Complaints.

DOCKET NO. 20210137-PU
ORDER NO. PSC-2021-0412-NOR-PU
ISSUED: November 4, 2021

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman
ART GRAHAM
ANDREW GILES FAY
MIKE LA ROSA
GABRIELLA PASSIDOMO

NOTICE OF RULEMAKING

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has proposed the adoption of Rule 25-18.010, Florida Administrative Code, that administers and implements Section 366.04(8), Florida Statutes, relating to pole attachment complaints filed with the Commission.

The attached Notice of Proposed Rule appeared in the November 4, 2021 edition of the Florida Administrative Register.

If timely requested, a hearing will be held at a time and place to be announced in a future notice.

Requests for hearing on the proposed rule must be provided in writing and received by the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than November 29, 2021.

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By ORDER of the Florida Public Service Commission this 4th day of November, 2021.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

KGWC

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE

25-18.010: Pole Attachment Complaints

PURPOSE AND EFFECT: This is a procedural rule proposed to administer and implement Section 366.04(8), FS, which requires the Florida Public Service Commission to regulate and enforce rates, charges, terms, and conditions for pole attachments.

Docket No. 20210137-PU

SUMMARY: Rule 25-18.010 gives the information that must be included in a complaint filed with the Commission by a pole owner or attaching entity pursuant to s. 366.04(8), FS; establishes the filing date for a complaint; gives requirements concerning responses filed to a complaint; and establishes time deadlines for Commission final action on complaints filed pursuant to Section 366.04(8), FS

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: A SERC was not prepared and ratification is not required pursuant to the exemption in Section 120.80(13)(g), F.S.

RULEMAKING AUTHORITY: 350.127(2), 366.04(8)(g) FS.

LAW IMPLEMENTED: 366.04(8) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kathryn G.W. Cowdery, kgcowdery@psc.state.fl.us, (850)413-6199, or Adria Harper, aharper@psc.state.fl.us, (850) 413-6082, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850

THE FULL TEXT OF THE PROPOSED RULE IS:

25-18.010 Pole Attachment Complaints

(1) A complaint filed with the Commission by a pole owner or attaching entity pursuant to Section 366.04(8), F.S., must contain:

(a) The name, address, email address, and telephone number of the complainant or complainant's attorney or qualified representative;

(b) A statement describing the facts that give rise to the complaint;

(c) Names of the party or parties against whom the complaint is filed;

(d) A copy of the pole attachment agreement, if applicable, and identification of the pole attachment rates, charges, terms, conditions, voluntary agreements, or any denial of access relative to pole attachments that is the subject matter of the complaint;

(e) A statement of the disputed issues of material fact or a statement that there are no disputed issues of material fact;

(f) If the complaint requires the Commission to establish just and reasonable cost-based rates, terms, and conditions for pole attachments, the complaint must contain an explanation of the methodology the complainant is requesting the Commission to apply;

(g) If the complaint involves a dispute regarding rates or billing, a statement of the dollar amount in dispute, the dollar amount not in dispute, whether the amount not in dispute has been paid to the pole owner, and if not paid the reasons why not;

(h) A statement of the relief requested, including whether a Section 120.569 and 120.57, F.S., evidentiary hearing is being requested to resolve the complaint; and

(i) A certificate of service that copies of the complaint have been furnished by email to the party or parties identified in paragraph (1)(c) of this rule.

(2) The filing date for the complaint is the date that a complaint is filed with the Commission Clerk containing all required information set forth in subsection (1) of this rule.

(3) The pole owner or attaching entity that is the subject of the complaint may file a response to the complaint. The response must be filed with the Commission Clerk within 30 calendar days of the date the complaint was served on the respondent, unless the Prehearing Officer grants a motion for extension of time filed pursuant to Rule 28-106.204, F.A.C., or Rule 28-106.303, F.A.C., as appropriate.

(4) A response filed under subsection (3) of this rule must include the following:

(a) A statement of whether a Section 120.569 and 120.57, F.S., evidentiary hearing is being requested to resolve the complaint; and

(b) If the complaint requires the Commission to establish just and reasonable cost-based rates, terms, and conditions for pole attachments, the response must contain an explanation of the methodology the respondent is requesting the Commission to apply.

(5) The Commission will take final action on a complaint concerning rates, charges, terms, conditions, and voluntary agreements relative to pole attachments at a Commission Conference no later than 360 days after the complaint's filing date as set forth in subsection (2) of this rule.

(6) The Commission will take final action on a complaint limited to denial of access relative to pole attachments at a Commission Conference no later than 180 days after the complaint's filing date as established under subsection (2) of this rule.

Rulemaking Authority 350.127(2), 366.04(8)(g) FS. Law Implemented 366.04(8) FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Brandon Wendell

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 2, 2021

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 47, Number 159, August 17, 2021.