

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Amendment of Rule 25-22.075,	)	DOCKET NO. 910465-EU
F.A.C., Transmission Line Permitting	)	ORDER NO. 25093
Proceedings	)	ISSUED: 9/24/91
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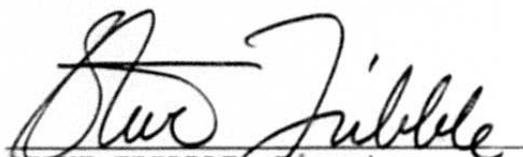
NOTICE OF ADOPTION OF RULE AMENDMENT

NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has adopted the amendments to Rule 25-22.075, F.A.C., relating to transmission line permitting proceedings with changes.

The rule amendment was filed with the Secretary of State on September 19, 1991 and will be effective on October 9, 1991. A copy of the relevant portions of the certification filed with the Secretary of State is attached to this Notice.

This docket is closed upon issuance of this notice.

By Direction of the Florida Public Service Commission, this  
24th day of SEPTEMBER, 1991.

  
 STEVE TRIBBLE, Director  
 Division of Records & Reporting

( S E A L )

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DOCUMENT NUMBER-DATE

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FDSC-RECORDS/REPORTING

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CERTIFICATION OF  
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES  
FILED WITH THE  
DEPARTMENT OF STATE

I do hereby certify:

(1) The time limitations prescribed by paragraph 120.54(11)(a), F.S., have been complied with; and

(2) There is no administrative determination under section 120.54(4), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(11)(b), F.S. They are filed not less than 28 days after the notice required by subsection 120.54(1), F.S., and;

(a) And are filed not more than 90 days after the notice; or

(b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

(c) Are filed within 21 days after the adjournment of the final public hearing on the rule; or

(d) Are filed within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(e) Are filed within 21 days after the date the transcript was received by this agency.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the

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undersigned agency by and upon their filing with the Department of State.

<u>Rule No.</u>	<u>Rulemaking Authority</u>	<u>Specific Law Being Implemented, Interpreted or Made Specific</u>
25-22.075	120.53(1)(c), 403.537(2)	403.537

Under the provision of paragraph 120.54(13)(a), F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_  
(month) (day) (year)

  
\_\_\_\_\_  
Steve Tribble

Director, Division of Records & Reporting  
Title

\_\_\_\_\_  
Number of Pages Certified

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Rule 25-22.075  
Docket No. 910465-EU

SUMMARY OF RULE

The proposed rule provides an option for utilities to notify the Commission 30 days in advance of their filing a petition for electrical transmission line need determination. If a utility chooses not to file a notice of intent to file a petition, the Commission will have good cause to extend the hearing date for 30 days to provide the required notice.

The rule is also revised to reflect other amendments made to the statute since the rule was adopted in 1980. Among these changes are requirements that the notice of hearing be published in newspapers of general circulation and that notice must be given to counties and regional planning councils in potentially affected jurisdictions. The rule also provides that the Commission will provide notice to the water management districts, the Department of Natural Resources and the Game and Fresh Water Fish Commission.

SUMMARY OF THE HEARING ON THE RULE

A public hearing was held by the Commission on September 10, 1991. In response to a proposed objection by the Joint Administrative Procedures Committee, the Commission voted to change section (1) to provide that it has good cause, pursuant to section 403.537(3), F.S., to extend the time for conduct of the hearing if it doesn't receive a notice of intent to file a petition at least 30 days before the petition is filed. In response to comments filed by the South Florida Water Management District, the Commission also revised section (2) of the rule to add water

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management districts, the Department of Natural Resources and the Game and Fresh Water Fish Commission to the list of those who will be notified of the hearing.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Section 403.537(1)(a), Florida Statutes (1990 Supp.), delineates the time, content, and method of notice the Commission must furnish when it schedules a hearing to determine the need for an electrical transmission line. This section also requires the Commission to hold the hearing within 45 days after a request is filed. The legislature amended section 403.537(1)(a) in 1990 to require that notice of the hearing be published at least 45 days before the hearing is held, rather than the 20 days previously required, but it did not change the requirement that the hearing be held within 45 days after the Commission receives a request. The effect of the amendment is to require that notice be published no later than the day the request is received.

In order to implement section 403.537(1)(a), Florida Statutes (1990 Supp.), the proposed rule provides an option for utilities to notify the Commission 30 days in advance of their filing a petition for need determination. The 30-day advance notice will allow the Commission sufficient time to schedule the hearing, prepare and mail the notice to the parties listed in the statute, and have the notice of hearing published in the Florida Administrative Weekly. If the utility chooses not to file a notice of intent to file a petition, the Commission will have good cause to extend the hearing date for 30 days.

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Other amendments made to the statute since the rule was adopted in 1980 required revision of the rule. Among these changes are requirements that the notice of hearing be published in newspapers of general circulation and that notice must be given to counties and regional planning councils in potentially affected jurisdictions.

1 25-22.075 Transmission Line Permitting Proceedings.

2 (1) Proceedings to determine the need for a proposed  
3 transmission line as defined in Section 403.522~~(21)~~(3), F.S., shall  
4 begin with a petition by a utility or an order issued on the  
5 Commission's own motion and shall be disposed of as provided in  
6 Chapter 25-22, F.A.C., except that the time deadlines and notice  
7 requirements in Section ~~403.537~~ 366-14, F.S., shall control.  
8 Proceedings may begin whether or not ~~notwithstanding the fact that~~  
9 an application for corridor site certification of a proposed  
10 transmission line pursuant to sections ~~403.52~~ 403-502 through  
11 ~~403.5365~~ 403-535, F.S., is pending. A petition for reconsideration  
12 shall be filed within 5 days of the Commission's decision.

13 (a) In order for the Commission to have sufficient  
14 information to provide the 45 days notice of final hearing required  
15 by Section 403.537, F.S., a utility that intends to petition for a  
16 transmission line need determination may file a Notice of Intent to  
17 File Petition for Transmission Line Need Determination at least 30  
18 days prior to the filing of a petition. The notice of intent shall  
19 identify the proposed beginning and ending points of the  
20 transmission line, and the counties, regional planning councils,  
21 and water management districts in whose jurisdiction the  
22 transmission line could be placed. The notice of intent shall  
23 further specify the date on which the utility reasonably expects to  
24 file the petition for need determination.

25 (b) If the Commission does not receive a Notice of Intent to

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1 File Petition for Transmission Line Need Determination at least 30  
2 days prior to the filing of a petition, or does not receive the  
3 petition within 5 days after the date specified in the notice of  
4 intent, the Commission shall have good cause, pursuant to s.  
5 403.537(3), F.S., to extend the time for conduct of the hearing for  
6 30 days.

7 (2) Upon receipt of a Notice of Intent to File Petition for  
8 Transmission Line Need Determination or a petition by a utility,  
9 whichever occurs first, or upon issuance of an order pursuant to  
10 subsection (1), the Commission shall schedule a hearing and shall  
11 give notice shall be given of the commencement of the proceeding  
12 to:

13 (a) The affected utility or utilities, if appropriate;

14 (b) The Department of Community Affairs, Division of Local  
15 Resource Management;

16 (c) The Department of Environmental Regulation; and

17 (d) Each person who has requested placement on the mailing  
18 list for receipt of such notice;

19 (e) The counties, water management districts, and regional  
20 planning councils in whose jurisdiction the transmission line could  
21 be placed.

22 (f) The Department of Natural Resources; and

23 (g) The Game and Fresh Water Fish Commission.

24 (3) The Commission shall also publish notice of the hearing  
25 at least 45 days before the hearing date in the Florida

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1 Administrative Weekly.

2 (4) The utility shall publish notice of the hearing at least  
3 45 days before the hearing date in newspapers of general  
4 circulation in the counties where the transmission line could be  
5 placed. Every notice published in a newspaper shall be at least  
6 one-quarter page in size. A copy of each newspaper notice, which  
7 includes the date of publication, shall be filed with the Division  
8 of Records and Reporting at least 30 days prior to the hearing  
9 date.

10 Specific Authority: 120.53(1)(c), 403.537(2), F.S.

11 Law Implemented: 403.537, F.S.

12 History: New 12/2/80, Transferred 12/21/81, formerly 25-22.75,

13 Amended \_\_\_\_\_.

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