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Public Service Commission

June 16, 2025

Ms. Alexandra Leijon
Administrative Code and Register Director
Office of General Counsel
Florida Department of State
Room 701, The Capitol
Tallahassee, FL 32399-0250

VIA EMAIL
AdministrativeCode@dos.fl.gov

Re: Technical Changes to Rule 25-22.006 Confidential Information, Rule 25-22.029 Point of Entry Into Proposed Agency Action Proceedings, Rule 25-22.036 Initiation of Formal Proceedings, Rule 25-22.0376 Reconsideration of Non-Final Orders, Rule 25-22.060 Motion for Reconsideration of Final Orders, Rule 25-22.075 Transmission Line Permitting Proceedings, and Rule 25-22.082 Selection of Generating Capacity

Dear Ms. Leijon:

Please make the following technical changes to Rules 25-22.006, 25-22.009, 25-22.036, 25-22.0376, 25-22.060, 25-22.075, and 25-22.082, F.A.C., which are reflected in the attached versions of the rule:

Rule 25-22.006(2)(b), F.A.C., last line: "...pursuant to Section 119.07 ~~119.01(7)~~, F.S."

This technical change is to correct the statutory citation.

Rule 25-22.006(4)(g), F.A.C., last line: "...pursuant to Section 288.703(6) ~~288.702~~, F.S."

This technical change is to correct the statutory citation.

Rule 25-22.029, F.A.C., *Law Implemented*: 120.569, 120.57, 120.80(13)(b), 364.05, 366.06, 367.081, 367.081(4)(a) ~~367.0817(4)(a)~~ FS.

This technical change is to correct the statutory citation.

Rule 25-22.036, F.A.C., *Rulemaking Authority*: 350.01(7), ~~350.127(2)~~ FS.

This technical change is to correct the statutory citation.

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Rule 25-22.036, F.A.C., *Law Implemented*: 120.569, 120.57, 350.123, ~~364.035,~~
~~364.05,~~ ~~364.057,~~ ~~364.058,~~ 364.335, ~~364.337,~~ 366.04, 366.06, 366.071, 366.076(1),
366.8255, 367.031, 367.045, 367.071, 367.081, 367.0814, 367.0817, 367.082, 367.0822,
367.091, 367.101, 367.171 FS.

This technical change is to remove statutes that have been repealed.

Rule 25-22.0376, F.A.C., *Rulemaking Authority*: ~~350.01(7),~~ 350.127(2) FS.

This technical change is to correct the statutory citation.

Rule 25-22.060, F.A.C., *Rulemaking Authority*: ~~350.01(7),~~ 350.127(2) FS.

This technical change is to correct the statutory citation.

Rule 25-22.075(2)(b), F.A.C.: The Florida Department of Commerce ~~Economic~~
~~Opportunity~~, Division of Community Development;

This technical change is to reflect the current, correct agency name.

Rule 25-22.082(2)(1), F.A.C.: ...as defined in Section 366.02(8), ~~366.02(1)~~, F.S.

This technical change is to correct the statutory citation.

Rule 25-22.036, F.A.C., *Rulemaking Authority*: 350.127(2), ~~366.01,~~ 366.05(1), (7),
~~366.051,~~ ~~366.06(2),~~ ~~366.07~~

This technical change is to correct the statutory citations.

The need for these technical changes was discovered during our review of our regulatory plan. Please let me know if you have any questions. You may reach me at (850) 413-6630 or at Susan.Sapoznikoff@psc.state.fl.us.

Sincerely,

/s/ Susan Sapoznikoff

Susan Sapoznikoff
Senior Attorney

Enclosures

cc: Office of Commission Clerk

25-22.006 Confidential Information.

(1) Definitions.

(a) "Confidential information" means material that has been determined, pursuant to this rule, to be proprietary confidential business information under Section 350.121, 364.183, 366.093 or 367.156, F.S.

(b) "Formal proceeding" means a proceeding docketed in the Commission's Office of Commission Clerk.

(c) "Inquiry" means an investigation pursuant to Section 350.121, F.S. An inquiry is set in motion by the Commission Chairman, the Executive Director, or the General Counsel to evaluate a complaint, allegation, or develop information as a basis to initiate action on or dispose of any matter within the Commission's jurisdiction.

(d) "Material" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other recorded information regardless of physical form or characteristics.

(e) "Obtaining material" means receiving material pursuant to filing or taking physical control of material by removing the original material or a copy of it from the utility's or other person's premises. Obtaining material also means the extraction of data from material for inclusion in working papers or memoranda.

(2) Material obtained during an inquiry.

(a) All material obtained incident to an inquiry by the Commission, its staff, or any consultant employed by the Commission is exempt from the public access requirements of Section 119.07(1), F.S., and will be accorded stringent procedural safeguards against public disclosure during the pendency of the inquiry. When the Commission or its staff is requesting information incident to an inquiry, the source shall be informed in writing that the request is made incident to an inquiry.

(b) An inquiry will terminate 40 days after the transmittal of a notice of termination by the Office of Commission Clerk. This notice will be sent to all sources from whom material was obtained during the inquiry and will include a list of all materials obtained from the source during the inquiry and any portions of staff work papers, analyses, and reports containing materials obtained from the source during the inquiry. The notice will indicate whether the Commission intends to retain, destroy, or return the materials listed. A source may, within 30 days after issuance of the notice, file with the Office of Commission Clerk a written request that the material the Commission intends to retain be classified as confidential and exempt from Section 119.07(1), F.S. Requests filed in response to the notice of termination shall meet the same criteria and be processed in the same manner as other requests for confidential classification under subsection (4) of this rule. If no timely request for confidential classification is filed, confidentiality is waived and the material becomes subject to inspection and examination pursuant to Section 119.07 ~~119.01(7)~~, F.S.

(3) Material obtained outside of an inquiry. Material obtained by the Commission or its staff outside of an inquiry shall be subject to inspection and examination pursuant to Section 119.07(1), F.S., unless the utility or other person requests that it be classified as confidential information.

(a)1. If the utility or other person believes information requested by staff is confidential, the utility or other person may require that the staff request be in writing. Prior to the staff obtaining any material, a utility or other person may receive temporary exemption from Section 119.07(1), F.S., by filing a notice of intent to request confidential classification. The notice of intent to request confidential classification shall be filed with the Office of Commission Clerk and shall have appended thereto a copy of any written request for the material to which it relates. A copy of the notice shall be provided to the division requesting the material. To maintain continued confidential handling of the material the utility or other person must, within 21 days after the staff has obtained the material, file a request for confidential classification with the Office of Commission Clerk. Absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality.

2. In the case of material obtained by the Commission's auditors, the utility shall indicate on the document request Form PSC/APA 6 (2/95) whether the information is believed by the utility to be confidential. To

maintain continued confidential handling of the material, the utility must, within 21 days after the audit exit conference or, if waived, the date the audit exit conference would have taken place, file a request for confidential classification with the Office of Commission Clerk. Absent good cause shown, failure to file such a request within 21 days shall constitute a waiver of confidentiality.

(b) When the material is obtained incident to a formal proceeding, the utility or other person requesting confidential classification shall also serve a copy or summary of its request on all parties of record and on Public Counsel. The summary shall describe the material in sufficient detail so as to reasonably inform the reader of the nature of the material. Any party to a formal proceeding may file an objection to the request for confidential classification within 14 days after service of the copy or summary.

(c) Requests for confidential classification, including motions for protective orders under paragraph (6)(a), and any objections filed in response thereto shall be ruled on expeditiously by the prehearing officer assigned to the docket. The Commission panel assigned to the case will hear any motion for reconsideration filed regarding the prehearing officer's ruling. If a request is received outside a docketed proceeding, the request itself will be docketed.

(d) All material that has been classified as confidential, for which a ruling on confidentiality is pending, is subject to a notice of intent to request confidential classification, or is subject to a claim of confidentiality as provided for in Section 364.183(1), F.S., shall be exempt from Section 119.07(1), F.S., and will be accorded stringent internal procedural safeguards against public disclosure. Any staff or consultant reports or work products containing confidential information extracted from material having been classified as confidential, or which has been claimed to be confidential or for which a ruling on confidentiality is pending, shall be handled in the same manner as the material so classified. The Commission shall have discretion to retain any confidential material in its possession. Upon the consent of the Department of State, the Commission may return or, after consulting with the source, destroy any material that is no longer needed.

(4) Requests for confidential classification.

(a) A request for confidential classification of material shall be filed in writing with the Office of Commission Clerk. All such requests, including motions for protective orders based on confidentiality, shall be styled to clearly indicate on their face that confidentiality is being requested. The utility or other person shall file with the request one copy of the material for which confidential treatment is requested. On this copy, the specific information asserted to be confidential shall be highlighted. Along with the highlighted copy, the utility or other person shall file two or more edited copies as required by the type of proceeding, which will be made available for public inspection. In the edited copies, the specific information asserted to be confidential shall be blocked out by the use of an opaque marker or other masking device. The utility or other person shall identify the page and line at which the confidential material is found and shall correlate the page and line identified with the specific justification proffered in support of the classification of such material.

(b) In the case of electronically stored material, one unedited version shall be submitted along with a written identification of the specific data fields for which confidential classification is requested along with a field-by-field justification for the confidential classification.

(c) In the line-by-line or field-by-field justification for confidential classification, the utility or other person must demonstrate how the information asserted to be confidential qualifies as one of the statutory examples listed in Section 364.183(3), 366.093(3) or 367.156(3), F.S. If no statutory example is applicable, then the utility or other person shall include a statement explaining how the ratepayers or the person's or utility's business operations will be harmed by disclosure.

(d) The request shall include an affirmative statement that the material for which confidential classification is sought is intended to be and is treated by the utility or other person as private and has not been disclosed.

(e) The burden of proof shall be on the utility or other person to show that the material in question contains bona fide proprietary confidential business information. A request for confidential classification that fails to

identify the material for which confidential classification is sought in sufficient detail to permit a reasoned analysis or which fails to provide the required justification for classification may be denied as insufficient on its face.

(f) The Office of Commission Clerk shall make available for public inspection a listing of daily filings with the Commission requesting confidentiality.

(g) The Commission shall have the discretion to modify the requirements of this subsection in order to alleviate the financial burden of entities qualifying as small businesses under Section ~~288.703(6)~~ 288.702, F.S.

(h) A utility may petition the Commission for a waiver of the justification for particular sections of certain routinized for filings. The Commission may require conditions to be met by the utility that may include, but not be limited to:

1. Filings which are routine, filed periodically, and which have been filed for a minimum of six months;
2. Information which has regularly been classified as confidential in the past; and
3. While the utility must identify material to be classified by line-by-line reference, the utility may cite to a previous order for justification. If the waiver is approved, the Commission will issue an order referencing the appropriate previous order stating the relevant justification. No party will be denied the opportunity to object to a request for confidentiality made pursuant to this subparagraph.

(5) Claim of confidential treatment pursuant to Section 364.183(1), F.S.

(a) Telecommunications companies or other persons claiming confidential treatment for materials pursuant to Section 364.183(1), F.S., shall file with the Office of Commission Clerk one copy of all such materials and include a cover letter stating that confidentiality is being claimed. The telecommunications company or other person also shall file one copy of the material on which the specific information claimed as confidential shall be highlighted. Along with the highlighted copy, the telecommunications company or other person shall file two edited copies which will be made available for public inspection. In the edited copies, the specific information claimed to be confidential shall be blocked out by the use of an opaque marker or other masking device.

(b) In the case of electronically stored material, one unedited version shall be submitted along with a written identification of the specific data fields for which confidentiality is claimed, along with a field-by-field justification for the confidential classification.

(c)1. The materials claimed to be confidential shall be kept confidential until returned to the provider pursuant to paragraph (6)(d) of this rule, unless the materials will be used in a Commission proceeding or are the subject of a request pursuant to Section 119.07(1), F.S.

2. Any person may file a petition to inspect and examine any material which has been claimed confidential pursuant to Section 364.183(1), F.S. A copy of the petition must be served on the affected telecommunications company or person which shall have 10 days to file a response as to why the material should remain exempt. The petitioner shall have 7 days to file a reply to the filed response. The Commission may set the matter for hearing or issue a ruling on the pleadings.

(6) Discovery.

(a) In any formal proceeding before the Commission, any utility or other person may request a protective order protecting proprietary confidential business information from discovery. Upon a showing by a utility or other person and a finding by the Commission that the material is entitled to protection, the Commission shall enter a protective order limiting discovery in the manner provided for in Rule 1.280, Florida Rules of Civil Procedure. The protective order shall specify how the confidential information is to be handled during the course of the proceeding and prescribe measures for protecting the information from disclosure outside the proceeding.

(b) The Commission's protective orders shall exempt proprietary confidential business information from Section 119.07(1), F.S. While a request for a protective order is pending, the information asserted to be

confidential shall also be exempt from Section 119.07(1), F.S. Such exemption shall apply whether the information is in the possession of an entity, individual, or state agency, including the Office of Public Counsel.

(c) When a utility or other person agrees to allow Public Counsel to inspect or take possession of utility information for the purpose of determining what information is to be used in a proceeding before the Commission, the utility may request a temporary protective order exempting the information from Section 119.07(1), F.S. If the information is to be used in a proceeding before the Commission, then the utility must file a specific request for a protective order under paragraph (a) above. If the information is not to be used in a proceeding before the Commission, then Public Counsel shall return the information to the utility in accordance with the record retention requirements of the Department of State.

(d) Confidential information which has not been entered into the official record of the proceeding shall be returned to the utility or person who provided the information no later than 60 days after the final order, unless the final order is appealed. If the final order is appealed, the confidential information which has not been made a part of the record shall be returned no later than 30 days after the decision on appeal.

(7)(a) Any person may file a petition to inspect and examine any material which the Commission has ruled exempt from Section 119.07(1), F.S., or which is exempted under paragraph (3)(d) pending the Commission's ruling or as the result of the filing of a notice of intent to request confidentiality. A copy of the petition must be served on the affected utility or person which shall have 10 days to file a response as to why the material should remain exempt. The petitioner shall have 7 days to file a reply to the filed response. The Commission may set the matter for hearing or issue a ruling on the pleadings. Material obtained by the Commission in connection with an inquiry shall not be subject to requests for inspection and examination until after the inquiry is terminated.

(b) A finding of confidentiality notwithstanding, a source may consent to inspection or examination by any person. Such consent shall not constitute a waiver of confidentiality and only the person specified in the consent may inspect or examine the material. The Commission may be requested to issue a protective order to recognize the terms and conditions of the consent. All persons are urged to seek mutual agreement regarding access prior to bringing a controversy to the Commission.

(8) Use of confidential information during formal proceedings.

(a) The Commission may rely upon confidential information during a formal proceeding and such information, if otherwise admissible, will be received in evidence. In such event, reasonable precautions will be taken to segregate confidential information in the record and otherwise protect its integrity.

(b) When information subject to a claim of confidentiality pursuant to Section 364.183(1), F.S., or a request is admitted into the evidentiary record of a hearing, if such information is not otherwise subject to a request for confidentiality filed with the Commission, the parties to the case and the Commission shall treat the information as confidential pending a ruling on the confidentiality of the information. To maintain continued confidentiality, the party to whom the information belongs shall file a request for confidential classification within 21 days of the conclusion of the hearing.

(c) When information subject to a claim of confidentiality pursuant to Section 364.183(1), F.S., or a request is contained in a party's brief or other post hearing filing filed with the Commission, the party filing such information shall notify the owner of the information at least three working days prior to the date that the filing will be made. To maintain continued confidential treatment, the party to whom the information belongs shall file, on the same date the brief or other post-hearing filing is filed, either a notice of intent to request confidentiality treatment pursuant to paragraph (b) of this subsection, a request for confidential treatment, or a statement that the information is already subject to a request for confidentiality that has been filed with the Commission and the date that the request was filed.

(9) Duration of Confidential Classification.

(a) Orders of the Commission granting confidential classification shall limit the duration of such classification to a period not exceeding 18 months. The Commission may approve a longer period if it finds, for good cause, that such longer period is necessary to protect the ratepayers or the business operations of the utility or affected person.

(b) When confidential information is no longer needed for the Commission to conduct its business, the Commission shall order all persons holding such information to return it to the utility or person providing the information.

(c) Confidential information not returned at the conclusion of the period established under paragraph (a) of this subsection, shall no longer be exempt from Section 119.07(1), F.S., unless the utility or affected person shows, and the Commission finds, that the information continues to be confidential. Upon such finding, the duration of confidential classification may be extended for a period of up to 18 months, or for a longer period if the Commission finds, for good cause, that such longer period is necessary to protect the business operations of the utility or affected person. While the Commission is considering an extension under this paragraph, the information in question shall remain exempt from Section 119.07(1), F.S.

(10) Judicial Review. When the Commission denies a request for confidential classification, the material will be kept confidential until the time for filing an appeal has expired. The utility or other person may request continued confidential treatment until judicial review is complete. The request shall be in writing and filed with the Office of Commission Clerk. The material will thereafter receive confidential treatment through completion of judicial review.

Rulemaking Authority 350.127, 364.183(4), 366.093(4), 367.156(4), 368.108(4) FS. Law Implemented 350.121, 364.183, 366.093, 367.156, 368.108 FS. History—New 7-1-85, Formerly 25-22.06, Amended 4-26-90, 4-21-96.

25-22.029 Point of Entry Into Proposed Agency Action Proceedings.

(1) After agenda conference, the Office of Commission Clerk shall issue written notice of the proposed agency action (PAA), advising all parties of record that, except for PAA orders establishing a price index pursuant to Section 367.081(4)(a), F.S., they have 21 days after issuance of the notice in which to file a request for a Section 120.569 or 120.57, F.S., hearing. For PAA orders establishing a price index pursuant to Section 367.081(4)(a), F.S., the time for requesting a Section 120.569 or 120.57, F.S., hearing shall be 14 days from issuance of the notice. The Commission will require a utility to serve written notice of the PAA on its customers if the Commission finds that it is necessary in order to afford adequate notice.

(2) The Commission will require a utility to publish notice of the decision in newspapers of general circulation in its service area if the Commission finds that it is necessary in order to afford adequate notice.

(3) One whose substantial interests may or will be affected by the Commission's proposed action may file a petition for a Section 120.569 or 120.57, F.S., hearing, in the form provided by Rule 28-106.201, F.A.C. Any such petition shall be filed within the time stated in the notice issued pursuant to subsection (1) of this rule, and shall identify the particular issues in the proposed action that are in dispute. Within 10 days of service of the initial petition, any other person substantially affected by the proposed agency action or Commission staff may file a cross-petition identifying additional particular issues on which a hearing is requested. Issues in the proposed action that are not identified in the petition or a cross-petition shall be deemed stipulated.

(4) The Commission will not entertain a motion for reconsideration of a notice of proposed agency action.

Rulemaking Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57, 120.80(13)(b), 364.05, 366.06, 367.081, 367.081(4)(a) ~~367.0817(4)(a)~~ FS. History—New 12-21-81, Formerly 25-22.29, Amended 7-8-92, 5-3-99, 1-1-07.

25-22.036 Initiation of Formal Proceedings.

(1) Application. An application is appropriate when a person seeks authority from the Commission to engage in an activity subject to Commission jurisdiction.

(2) Complaints. A complaint is appropriate when a person complains of an act or omission by a person subject to Commission jurisdiction which affects the complainant's substantial interests and which is in violation of a statute enforced by the Commission, or of any Commission rule or order.

(3) Form and Content.

(a) Application. An application shall be governed by the statute or rules applicable to applications for authority. In the absence of a specific form and content, the application shall conform to this rule.

(b) Complaint. Each complaint, in addition to the requirements of paragraph (3)(a) above shall also contain:

1. The rule, order, or statute that has been violated;
2. The actions that constitute the violation;
3. The name and address of the person against whom the complaint is lodged;
4. The specific relief requested, including any penalty sought.

Rulemaking Authority ~~350.01(7)~~, 350.127(2) FS. Law Implemented 120.569, 120.57, 350.123, 364.035, 364.05, 364.057, 364.058, 364.335, ~~364.337~~, 366.04, 366.06, 366.071, 366.076(1), 366.8255, 367.031, 367.045, 367.071, 367.081, 367.0814, 367.0817, 367.082, 367.0822, 367.091, 367.101, 367.171 FS. History—New 12-21-81, Formerly 25-22.36, Amended 5-3-99, 7-17-00.

25-22.0376 Reconsideration of Non-Final Orders.

(1) Any party who is adversely affected by a non-final order may seek reconsideration by the Commission panel assigned to the proceeding by filing a motion in support thereof within 10 days after issuance of the order. The Commission shall not entertain a motion for reconsideration of an order disposing of a motion for reconsideration.

(2) A party may file a response to a motion for reconsideration within 7 days after service of the motion for reconsideration.

(3) Failure to timely file a motion for reconsideration or a response shall constitute a waiver of the right to do so.

(4) Any motion or response filed pursuant to this rule shall contain a concise statement of the grounds therefor and the signature of counsel or other person filing the motion.

(5) The Commission will not entertain a motion for reconsideration of a notice of proposed agency action.

Rulemaking Authority ~~350.01(7)~~, 350.127(2) FS. Law Implemented 120.569, 120.57 FS. History—New 9-3-95, Amended 7-11-96, 1-1-07.

25-22.060 Motion for Reconsideration of Final Orders.

(1) Scope and General Provisions.

(a) Any party to a proceeding who is adversely affected by an order of the Commission may file a motion for reconsideration of that order. The Commission will not entertain any motion for reconsideration of any order that disposes of a motion for reconsideration. Petitions for reconsideration are not authorized in the rulemaking process, and the Commission will not entertain any motion for reconsideration on the adoption, repeal, or amendment of a rule.

(b) A party may file a response to a motion for reconsideration and may file a cross motion for reconsideration. A party may file a response to a cross motion for reconsideration.

(c) A final order shall not be deemed rendered for the purpose of judicial review until the Commission disposes of any motion and cross motion for reconsideration of that order, but this provision does not serve

automatically to stay the effectiveness of any such final order. The time period for filing a motion for reconsideration is not tolled by the filing of any other motion for reconsideration.

(d) Failure to file a timely motion for reconsideration, cross motion for reconsideration, or response, shall constitute waiver of the right to do so.

(2) Contents. Any motion or response filed pursuant to this rule shall contain a concise statement of the grounds for reconsideration, and the signature of counsel, if any.

(3) Time. A motion for reconsideration of a final order shall be filed within 15 days after issuance of the order. A response to a motion for reconsideration or a cross motion for reconsideration shall be served within 7 days of service of the motion for reconsideration to which the response or cross motion is directed. A response to a cross motion for reconsideration shall be served within 7 days of service of the cross motion.

Rulemaking Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57 FS. History—New 12-21-81, Amended 10-4-84, Formerly 25-22.60, Amended 7-11-96, 1-1-07, 11-23-17.

25-22.075 Transmission Line Permitting Proceedings.

(1) Proceedings to determine the need for a proposed transmission line as defined in Section 403.522(22), F.S., shall begin with a petition by a utility or an order issued on the Commission's own motion and shall be disposed of as provided in Chapter 25-22, F.A.C., except that the time deadlines and notice requirements in Section 403.537, F.S., shall control. Proceedings may begin whether or not an application for corridor site certification of a proposed transmission line pursuant to Sections 403.52 through 403.5365, F.S., is pending. A petition for reconsideration shall be filed within 5 days of the Commission's decision.

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

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

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

- (a) The affected utility or utilities, if appropriate;
 - (b) The Florida Department of Commerce Economic Opportunity, Division of Community Development;
 - (c) The Department of Environmental Protection;
 - (d) Each person who has requested placement on the mailing list for receipt of such notice;
 - (e) The counties, water management districts, and regional planning councils in whose jurisdiction the transmission line could be placed; and
 - (f) The Fish and Wildlife Conservation Commission;
- (3) The Commission shall also publish notice of the hearing at least 45 days before the hearing date in the Florida Administrative Register.

(4) The utility shall publish notice of the hearing at least 45 days before the hearing date in newspapers of general circulation in the counties where the transmission line could be placed. Every notice published in a newspaper shall be at least one-quarter page in size. A copy of each newspaper notice, which includes the date

of publication, shall be filed with the Office of Commission Clerk at least 30 days prior to the hearing date.

Rulemaking Authority 350.127(2), 403.537(2) FS. Law Implemented 403.537 FS. History—New 12-20-81, Formerly 25-2.130, 25-22.75, Amended 10-9-91.

25-22.082 Selection of Generating Capacity.

(1) Scope and Intent. The intent of this rule is to provide the Commission information to evaluate a public utility's decision regarding the addition of generating capacity pursuant to Section 403.519, F.S. The use of a Request for Proposals (RFP) process is an appropriate means to ensure that a public utility's selection of a proposed generation addition is the most cost-effective alternative available.

(2) Definitions. For the purpose of this rule, the following terms shall have the following meaning:

(a) Public Utility: all electric utilities subject to the Florida Public Service Commission's ratemaking authority, as defined in Section ~~366.02(8)~~ 366.02(1), F.S.

(b) Next Planned Generating Unit: the next generating unit addition planned for construction by a public utility that will require certification pursuant to Section 403.519, F.S.

(c) Request for Proposals (RFP): a document in which a public utility publishes the price and non-price attributes of its next planned generating unit in order to solicit and screen, for potential subsequent contract negotiations, competitive proposals for supply-side alternatives to the public utility's next planned generating unit.

(d) Participant: a potential generation supplier who submits a proposal in compliance with both the schedule and informational requirements of a public utility's RFP. A participant may include, but is not limited to, utility and non-utility generators, Exempt Wholesale Generators (EWGs), Qualifying Facilities (QFs), marketers, and affiliates of public utilities, as well as providers of turnkey offerings, distributed generation, and other utility supply side alternatives.

(e) Finalist: one or more participants selected by the public utility with whom to conduct subsequent contract negotiations.

(3) Prior to filing a petition for determination of need for an electrical power plant pursuant to Section 403.519, F.S., each public utility shall evaluate supply-side alternatives to its next planned generating unit by issuing a Request for Proposals (RFP).

(4) Each public utility shall provide timely notification of its issuance of an RFP by publishing public notices in major newspapers, periodicals and trade publications to ensure statewide and national circulation. The public notice given shall include, at a minimum:

(a) The name and address of the contact person from whom an RFP package may be requested;

(b) A general description of the public utility's next planned generating unit, including its planned in-service date, MW size, location, fuel type and technology; and

(c) A schedule of critical dates for the solicitation, evaluation, screening of proposals and subsequent contract negotiations.

(5) No term of the RFP shall be unfair, unduly discriminatory, onerous, or commercially infeasible. Each public utility's RFP shall include, at a minimum:

(a) A detailed technical description of the public utility's next planned generating unit or units on which the RFP is based, as well as the financial assumptions and parameters associated with it, including, at a minimum, the following information:

1. A description of the public utility's next planned generating unit(s) and its proposed location(s);
2. The MW size;
3. The estimated in-service date;
4. The primary and secondary fuel type;
5. An estimate of the total direct cost;

6. An estimate of the annual revenue requirements;
 7. An estimate of the annual economic value of deferring construction;
 8. An estimate of the fixed and variable operation and maintenance expense;
 9. An estimate of the fuel cost;
 10. An estimate of the planned and forced outage rates, heat rate, minimum load and ramp rates, and other technical details;
 11. A description and estimate of the costs required for associated facilities such as gas laterals and transmission interconnection;
 12. A discussion of the actions necessary to comply with environmental requirements; and
 13. A summary of all major assumptions used in developing the above estimates;
- (b) A copy of the public utility's most recent Ten-Year Site Plan;
- (c) A schedule of critical dates for solicitation, evaluation, screening of proposals, selection of finalists, and subsequent contract negotiations;
- (d) A description of the price and non-price attributes to be addressed by each alternative generating proposal including, but not limited to:
1. Technical and financial viability;
 2. Dispatchability;
 3. Deliverability (interconnection and transmission);
 4. Fuel supply;
 5. Water supply;
 6. Environmental compliance;
 7. Performance criteria;
 8. Pricing structure; and
- (e) A detailed description of the criteria and the methodology, including any weighting and ranking factors, to be used to evaluate alternative generating proposals on the basis of price and non-price attributes.
- (f) Any application fees that will be required of a participant. Any such fees or deposits shall be cost-based;
- (g) Best available information regarding system-specific conditions which may include, but not be limited to, preferred locations proximate to load centers, transmission constraints, the need for voltage support in particular areas, and/or the public utility's need or desire for greater diversity of fuel sources.
- (6) No attribute, criterion, or methodology shall be employed that is not identified in the RFP absent a showing that such attribute, criterion, or methodology is necessary for and consistent with the purpose of the rule.
- (7) As part of its RFP, the public utility shall require each participant to publish a notice in a newspaper of general circulation in each county in which the participant proposes to build an electrical power plant. The notice shall be at least one-quarter of a page and shall be published no later than 10 days after the date that proposals are due. The notice shall state that the participant has submitted a proposal to build an electrical power plant, and shall include the name and address of the participant submitting the proposal, the name and address of the public utility that solicited proposals, and a general description of the proposed power plant and its location.
- (8) Within 30 days after the public utility has selected finalists, if any, from the participants who responded to the RFP, the public utility shall publish notice in a newspaper of general circulation in each county in which a finalist proposes to build an electrical power plant. The notice shall include the name and address of each finalist, the name and address of the public utility, and a general description of each proposed electrical power plant, including its location, size, fuel type, and associated facilities.
- (9) Each public utility shall file a copy of its RFP with the Commission.

(10) The public utility shall allow participants to formulate creative responses to the RFP, such as responses which employ innovative or inventive technologies or processes. The public utility shall evaluate all proposals.

(11) The public utility shall conduct a meeting prior to the release of the RFP with potential participants to discuss the requirements of the RFP. The public utility shall also conduct a meeting within two weeks after the issuance of the RFP and prior to the submission of any proposals. The Office of Public Counsel and the Commission staff shall be notified in a timely manner of the date, time, and location of such meetings.

(12) A potential participant may file with the Commission objections to the RFP limited to specific allegations of violations of this rule within 10 days of the issuance of the RFP. The public utility may file a written response within 5 days. Within 30 days from the date of the objection, the Commission panel assigned shall determine whether the objection as stated would demonstrate that a rule violation has occurred, based on the written submission and oral argument by the objector and the public utility, without discovery or an evidentiary hearing. The RFP process will not be abated pending the resolution of such objections.

(13) A minimum of 60 days shall be provided between the issuance of the RFP, and the due date for proposals in response to the RFP.

(14) The public utility shall evaluate the proposals received in response to the RFP in a fair comparison with the public utility's next planned generating unit identified in the RFP. The public utility may modify the construction costs and/or performance parameters affecting revenue requirements in its next planned generating unit that it included in the RFP. However, if it chooses to do so, it must inform participants of its intent, and provide the participants (limited to the remaining finalists) a corresponding opportunity to revise their bids.

(15) If the Commission approves a purchase power agreement as a result of the RFP, the public utility shall be authorized to recover the prudently incurred costs of the agreement through the public utility's capacity, and fuel and purchased power cost recovery clauses absent evidence of fraud, mistake, or similar grounds sufficient to disturb the finality of the approval under governing law. If the public utility selects a self-build option, costs in addition to those identified in the need determination proceeding shall not be recoverable unless the utility can demonstrate that such costs were prudently incurred and due to extraordinary circumstance.

(16) The Commission shall not allow potential suppliers of capacity who were not participants to contest the outcome of the selection process in a power plant need determination proceeding.

(17) In implementing an RFP under this rule, the public utility may use or incorporate an auction process.

(18) Upon a showing by a public utility and a finding by the Commission that a proposal not in compliance with this rule's provisions will likely result in a lower cost supply of electricity to the utility's general body of ratepayers, increase the reliable supply of electricity to the utility's general body of ratepayers, or otherwise will serve the public welfare, the Commission shall exempt the utility from compliance with the rule or any part of it for which such justification is found.

Rulemaking Authority 350.127(2), ~~366.01~~, 366.05(1), (7), ~~366.051~~, ~~366.06(2)~~, ~~366.07~~ FS. Law Implemented 366.04(1), (2), (5), 366.041, 366.051, 366.06(1), (2), 366.07, 403.519 FS. History—New 1-10-94, Amended 6-17-03.

Janet Cayson

Subject: FW: Technical Changes to 25-22 rules

From: Administrative Code <AdministrativeCode@dos.fl.gov>

Sent: Monday, June 16, 2025 10:06 AM

To: Susan Sapoznikoff <SSapozni@psc.state.fl.us>; Administrative Code <AdministrativeCode@dos.fl.gov>

Subject: RE: Technical Changes to 25-22 rules

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning,

This request has been completed.

Best,

Alexandra Leijon

Administrative Code and Register Director

Office of General Counsel

Department of State

Room 701I The Capitol | Tallahassee, FL

P: (850)245-6208

Alexandra.Leijon@dos.fl.gov

From: Susan Sapoznikoff <SSapozni@psc.state.fl.us>

Sent: Monday, June 16, 2025 8:50 AM

To: Administrative Code <AdministrativeCode@dos.fl.gov>

Subject: Technical Changes to 25-22 rules

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Good morning, Ms. Leijon:

I have attached the Commission's technical changes to rules in 25-22, F.A.C.

I have attached the texts of the rules in Word format due to the number of rules involved.

Please contact me with any questions or concerns.

With best regards,

Suzie