

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-

RECEIVED-FPSC
12 SEP 20 AM 11:09
COMMISSION
CLERK

DATE: September 20, 2012

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Miller) *CM CSA SMC.*
Division of Economics (King) *J.W.D.*

RE: Docket No. 120230-PU – Proposed repeal of Rule 25-4.043, Response to Commission Staff Inquiries, Rule 25-6.004, Reference to Commission, Rule 25-6.042, Response to Commission Inquiries and Rule 25-7.038, Response to Commission Staff Inquiries.

AGENDA: 10/02/12 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\120230..CBM.RCM.DOC

Case Background

Rules 25-4.043, 25-6.042, and 25-7.038 require companies to respond in writing to Commission staff inquiries within a specific time (15 days) regarding service or other complaints. Rule 25-6.004 clarifies that disputes involving the interpretation of rules and regulations may be referred to the Commission for adjudication.

On May 7, 2012, the staff of the Joint Administrative Procedures Committee (JAPC), pursuant to its authority to review agency rules, sent a letter questioning the Commission's need for these rules. JAPC noted that Rule 25-6.004 seemed to be redundant of Section 120.565, F.S.,

DOCUMENT NUMBER-DATE

06324 SEP 20 12

FPSC-COMMISSION CLERK

Docket No. 120230-PU
Date: September 20, 2012

which governs requests for agency declaratory statements. Also, JAPC stated that Rules 25-6.042 and 25-4.043 appear vague.

This recommendation addresses whether the Commission should propose the repeal of Rules 25-4.043, 25-6.042, 25-7.038, and 25-6.004, F.A.C. The Commission has jurisdiction pursuant to Section 120.54, F.S.

Discussion of Issues

Issue 1: Should the Commission propose the repeal of Rule 25-4.043, Response to Commission Staff Inquiries; Rule 25-6.004, Reference to Commission; Rule 25-6.042, Response to Commission Staff Inquiries; and Rule 25-7.038, Response to Commission Staff Inquiries?

Recommendation: Yes, the Commission should propose the repeal of the rules as set forth in Attachment A. (Miller, King)

Staff Analysis: Rule 25-4.043 requires telecommunications company responses to Commission staff concerning service or other complaints be received by the Commission within 15 days from the date of inquiry. Rule 25-6.042 has the same requirement for electric utilities, and Rule 25-7.038 has the same requirement for gas utilities. Rule 25-22.032, F.A.C., addressing the procedure for resolving customer complaints, requires in subsection (6)(c) that responses to Commission staff inquiries be provided within 15 days. Also, response times to discovery requests are governed by Rule 28-106.206, F.A.C. Rules 25-22.032 and 28-106.206 apply to all industries and, thus, appear to alleviate the need for Rules 25-4.043, 25-6.042, and 25-7.038.

Rule 25-6.004 authorizes the referral of interpretations of rules and regulations to the Commission for determination. Rule 25-6.004, F.A.C., appears unnecessary because requests for declaratory statements, pursuant to Section 120.565, F.S., cover the referral to the Commission of interpretation of rules and regulations. Thus, Rule 25-6.004 is redundant of section 120.565, F.S., and may be repealed.

Statement of Estimated Regulatory Costs (SERC):

The Statement of Estimated Regulatory Costs (Attachment B) analyzes whether the rule repeals are likely to have an adverse impact on growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after implementation. Also, the statute requires consideration of whether the draft rules are likely to have an adverse impact on business competitiveness, productivity, or innovation in excess of the above amount. These rule repeals would not have such an impact. Thus, the rule repeals do not require legislative ratification, pursuant to Section 120.541(3), Florida Statutes.

Staff recommends that the Commission propose the repeal of Rule 25-4.043, Response to Commission Staff Inquiries; Rule 25-6.004, Reference to Commission; Rule 25-6.042, Response to Commission Staff Inquiries; and Rule 25-7.038, Response to Commission Staff Inquiries.

Docket No. 120230-PU
Date: September 20, 2012

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rules should be filed with the Department of State, and the docket should be closed. (Miller)

Staff Analysis: If no requests for hearing or comments are filed, the rules should be filed with the Department of State, and the docket should be closed.

1 25-4.043 Response to Commission Staff Inquiries.

2 ~~The necessary replies to inquiries propounded by Commission's staff concerning service or~~
3 ~~other complaints received by the Commission shall be furnished in writing within fifteen (15)~~
4 ~~days from the date of the Commission inquiry.~~

5 *Specific Authority 350.127(2) FS. Law Implemented 364.183 FS. History – New 12-1-68,*

6 *Formerly 25-4.43. Repealed xx-xx-xx.*

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 25-6.004 Reference to Commission.

2 ~~In the event of any dispute involving the interpretation of any of these rules and regulations,~~
3 ~~any party in interest may refer the matter to the Commission for adjudication.~~

4 *Specific Authority 366.05(1) FS. Law Implemented 366.05(1) FS. History – Amended 7-29-*
5 *69, Formerly 25-6.04., Repealed xx-xx-xx.*

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 25-6.042 Response to Commission Staff Inquiries.
2 ~~The necessary replies to inquiries propounded by Commission's staff concerning service or~~
3 ~~other complaints received by the Commission shall be furnished in writing within fifteen (15)~~
4 ~~working days from the date of a Commission inquiry wherever practical.~~
5 *Specific Authority 366.05(1) FS. Law Implemented 366.04(2)(f), 366.05(1)FS. History – New*
6 *4-13-80, Formerly 25-6.42. Repealed xx-xx-xx.*

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 25-7.038 Response to Commission Staff Inquiries.
2 ~~The necessary replies to inquiries propounded by Commission's staff shall be furnished in~~
3 ~~writing within fifteen (15) days from the date of the Commission inquiry.~~
4 *Specific Authority 366.05(1) FS. Law Implemented 366.05(1), 366.05(3)FS. History –*
5 *Amended 10-20-73, Repromulgated 1-8-75, 5-4-75, Formerly 25-7.38. Repealed xx-xx-xx.*

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

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-

DATE: August 23, 2012
TO: Cindy B. Miller, Senior Attorney, Office of the General Counsel
FROM: Laura V. King, Economic Analyst, Division of Economics *LJK ELD*
RE: Statement of Estimated Regulatory Costs for Proposed Repeal of Rules 25-4.043, 25-6.042, 25-7.038, Florida Administrative Code (F.A.C.), Response to Commission Staff Inquiries; and 25-6.004, F.A.C., Reference to Commission.

Rules 25-4.043, 25-6.042, and 25-7.038, F.A.C., Response to Commission Staff Inquiries, require companies to respond in writing to staff inquiries within 15 days regarding service or other complaints. Rule 25-6.004, F.A.C., Reference to Commission, clarifies that disputes involving the interpretation of rules and regulations may be referred to the Commission for adjudication.

The Joint Administrative Procedures Committee sent two letters to the PSC's General Counsel which provided a series of questions regarding the rules which, upon review, revealed that the rules were no longer necessary and should be repealed. Repealing these rules would remove unnecessary and/or duplicative rule language which in turn benefits the affected utilities.¹ Moreover, repealing these rules will not:

- adversely impact business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within 5 years;
- increase regulatory costs, including any transactional costs, in excess of \$1 million within 5 years;
- impose any additional costs nor impact revenues of the FPSC or other state or local government entities;
- have an impact on small cities or small counties.

cc: Jim Dean
Connie Kummer
Elisabeth Draper
Marshall Willis
Beth Salak

¹ The affected utilities are the 5 electric IOUs, 7 gas IOUs, and 10 local exchange companies.