

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: June 10, 2019
TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk
FROM: Samantha Cibula, Office of the General Counsel *SML*
RE: Docket No. 19981755-GU

Please file the attached materials in the docket file listed above.

Thank you.

Attachment

RECEIVED-FPSC
2019 JUN 10 PM 12: 59
COMMISSION
CLERK

TONI JENNINGS
President



Senator Walter "Skip" Campbell, Chairman
Representative Bill Posey, Vice Chairman
Senator Ginny Brown-Waite
Senator Lisa Carlton
Representative O. R. "Rick" Minton, Jr.
Representative Adam H. Putnam

JOHN THRASHER
Speaker



THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

CARROLL WEBB, EXECUTIVE DIRECTOR
AND GENERAL COUNSEL
Room 120, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

February 5, 1999

Ms. Christiana T. Moore
Associate General Counsel
Division of Appeals
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: Public Service Commission Rule 25-6.097

Dear Chris:

I have completed a review of rule 25-6.097 and prepared the following comments for your consideration and response.

The rule requires the establishment of credit and security deposits by customers of public utilities. Various statutes are identified as law implemented. These statutes pertain generally to the Commission's authority to fix the rates, charges, fares, tolls, or rentals to be observed and charged by public utilities, and to require terms governing the service provided to customers. However, all of the statutes cited as law implemented or rulemaking authority are silent with regard to the establishment of credit or customer deposits.

The 1996 amendments to the Administrative Procedure Act set forth a more rigid test for measuring an agency's rulemaking authority than had previously existed. Section 120.536(1), F.S., the "map-tack" provision states as follows:

A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement, interpret, or make specific the particular powers

Ms. Moore
February 5, 1999
Page 2

and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than the particular powers and duties conferred by the same statute. (e.s.)

In light of the provisions above, please apprise me of the statute(s) which authorizes the Commission to require the establishment of credit and customer deposits. Are the security deposits part of the rates, charges, fares, tolls, or rentals referred to? If not, does the Commission intend to seek legislative authority for the rule?

Sincerely,



John Rosner
Staff Attorney

#118249
JR:CW S:AATTY25-6.JR

TONI JENNINGS
President



Senator Walter "Skip" Campbell, Chairman
Representative Bill Posey, Vice Chairman
Senator Ginny Brown-Waite
Senator Lisa Carlton
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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
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Telephone (850) 488-9110

February 9, 1999

Ms. Christiana T. Moore
Associate General Counsel
Division of Appeals
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

RECEIVED
99 FEB 10 PM 1:58
FLORIDA PUBLIC SERVICE COMMISSION
DIVISION OF APPEALS

Re: Public Service Commission Rule 25-7.083

Dear Chris:

In reviewing rule 25-7.083, I have arrived at the same conclusions as are applicable to rule 25-6.097. I am enclosing a copy of that letter for your convenience.

Sincerely,

A handwritten signature in black ink, appearing to be "John Rosner".

John Rosner
Staff Attorney

Enclosure

#118250
JR:CW S:\ATTY\25-7.JR

STATE OF FLORIDA

Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



DIVISION OF APPEALS
DAVID SMITH
DIRECTOR
(850) 413-6245

Public Service Commission

February 16, 1999

Mr. John Rosner
Staff Attorney
Joint Administrative Procedures Committee
Room 120, Holland Building
Tallahassee, Florida 32399-1300

Re: Public Service Commission Rules 25-6.097 and 25-7.083, Customer Deposits

Dear Mr. Rosner:

This letter is written to respond to your letters of February 5, 1999, and February 9, 1999, about the Commission's authority for the above rules. Customer deposits are regulated by the Commission under its statutory authority to prescribe charges and pursuant to its authority to prescribe service rules to be observed by each public utility.

The Commission intends to file these rules for adoption on Friday, February 19, 1999. Please do not hesitate to call me if you have questions.

Sincerely yours,

A handwritten signature in cursive script that reads "Christiana T. Moore".

Christiana T. Moore
Associate General Counsel

CTM/