

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendment of Rule 25-4.020,  
F.A.C., Location and Preservation of Records,  
and Rule 25-4.0201, F.A.C., Audit Access to  
Records.

DOCKET NO. 120050-TP  
ORDER NO. PSC-12-0301-FOF-TP  
ISSUED: June 11, 2012

The following Commissioners participated in the disposition of this matter:

RONALD A. BRISÉ, Chairman  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

NOTICE OF ADOPTION OF RULE

NOTICE is hereby given that pursuant to Section 120.54, Florida Statutes, the Florida Public Service Commission has adopted without changes Rule 25-4.020, Florida Administrative Code, Location and Preservation of Records, and Rule 25-4.0201, Florida Administrative Code, Audit Access to Records.

The rules were filed with the Department of State on June 8, 2012 and will be effective on June 28, 2012. A copy of the rules as filed with the Department is attached to this Notice.

This docket is closed upon issuance of this Notice.

By ORDER of the Florida Public Service Commission this 11th day of June, 2012.



ANN COLE  
Commission Clerk  
Florida Public Service Commission  
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Tallahassee, Florida 32399  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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FPSC - COMMISSION CLERK

**25-4.020 Location and Preservation of Records.**

(1) Any company that keeps its records outside the State shall reimburse the Commission for the reasonable travel expense incurred by each Commission representative during any review of the out-of-state records of the company or its affiliates. Reasonable travel expenses are those travel expenses that are equivalent to travel expenses paid by the Commission in the ordinary course of its business.

(a) The company shall remit reimbursement for out-of-state travel expenses within 30 days from the date the Commission mails the invoice.

(b) The reimbursement requirement in subsection (1) shall be waived for any company that makes its out-of-state records available at the company's office located in Florida or at another mutually agreed upon location in Florida within 10 working days from the Commission's initial request. If 10 working days is not reasonable because of the complexity and nature of the issues involved or the volume and type of material requested, the Commission may establish a different time frame for the company to bring records into the state. For individual data requests made during an audit, the response time frame established in Rule 25-4.0201, F.A.C., shall control. All records that a company is required to keep, by reason of these or other rules prescribed by the Commission, shall be kept at the office or offices of the company within the State unless otherwise authorized by the Commission.

(2) During any audit or review of records, the company shall provide Commission staff with adequate and comfortable working and filing space, consistent with the prevailing conditions and climate, and comparable with the accommodations provided the company's outside auditors. Any company that keeps its records outside the State shall reimburse the Commission for the reasonable travel expense incurred by each Commission representative during any review of the out-of-state records of the company or its affiliates. Reasonable travel expenses are those travel expenses that are equivalent to travel expenses paid by the Commission in the ordinary course of its business.

(a) The company shall remit reimbursement for out-of-state travel expenses within 30 days from the date the Commission mails the invoice.

(b) The reimbursement requirement in subsection (2) shall be waived:

~~1. For any company that makes its out-of-state records available at the company's office located in Florida or at another mutually agreed upon location in Florida within 10 working days from the Commission's initial request. If 10 working days is not reasonable because of the complexity and nature of the issues involved or the volume and type of material requested, the Commission may establish a different time frame for the company to bring records into the state. For individual data requests made during an audit, the response time frame established in Rule 25-4.0201, F.A.C., shall control; or~~

~~2. For a company whose records are located within 50 miles of the Florida state line.~~

~~(3) All records shall be preserved for the period of time specified in Form PSC/ECR/17-T (5/93), entitled "Schedule of Records and Periods of Retention" which is incorporated by reference into this rule, and may be obtained from the Director, Division of Economic Regulation, Florida Public Service Commission.~~

~~(a) However, all source documents retained as required by subsection 25-4.020(3), F.A.C., shall be maintained in their original form for a minimum of three years, or for any lesser period of time specified for that type of record in Form PSC/ECR/17-T, after the date the document was created or received by the company. This paragraph does not require the company to create paper copies of documents where the company would not otherwise do so in the ordinary course of its business. The Commission may waive the requirement that documents be retained in their original form upon a showing by a company that it employs a storage and retrieval system that consistently produces clear, readable copies that are substantially equivalent to the originals, and clearly reproduces handwritten notations on documents.~~

~~(b) The company shall maintain written procedures governing the conversion of source documents to a storage and retrieval system, which procedures ensure the authenticity of documents and the completeness of records. Records maintained in the storage and retrieval system must be easy to search and easy to read.~~

~~(4) During any audit or review of records, the company shall provide Commission staff with adequate and comfortable working and filing space, consistent with the prevailing conditions and climate, and comparable with the accommodations provided the company's outside auditors.~~

*Rulemaking Authority 350.127(2), 364.016, ~~364.17, 364.18~~; 364.183, ~~364.185~~ FS. Law Implemented 364.016, ~~364.17, 364.18~~, 364.183, ~~364.185~~ FS. History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.20, Amended 6-23-93, 11-13-95, 1-25-09, \_\_\_\_\_.*

**25-4.0201 Audit Access to Records.**

This rule addresses the reasonable access to company utility and affiliate records provided by Section 364.183(1), F.S., for the purposes of management and financial audits.

- (1) The audit scope, audit program and objectives, and audit requests are not constrained by relevancy standards narrower than those provided by Section 364.183(1), F.S.
- (2) Reasonable access means that company responses to audit requests for access to records shall be fully provided within the time frame established by the auditor. In establishing a due date, the auditor shall consider the location of the records, the volume of information requested, the number of pending requests, the amount of independent analysis required, and reasonable time for the company utility to review its response for possible claims of confidentiality or privilege.
- (3) In those instances where the company utility disagrees with the auditor's assessment of a reasonable response time to the request, the company utility shall first attempt to discuss the disagreement with the auditor and reach an acceptable revised date. If agreement cannot be reached, the company utility shall discuss the issue with successive levels of supervisors at the Commission until an agreement is reached. If necessary, a final decision shall be made by the Prehearing Officer. If the audit is related to an undocketed case, the Chairman shall make the decision.
- (4) The company utility and its affiliates shall have the opportunity to safeguard its their records by copying them or logging them out, provided, however, that safeguard measures shall not be used to prevent reasonable access by Commission auditors to company utility or affiliate records.
- (5) Reasonable access to records includes reasonable access to personnel to obtain testimonial evidence in response to inquiries or through interviews.

(6) Nothing in this rule shall preclude Commission auditors from making copies or taking notes. In the event these notes relate to documents for which the company has asserted confidential status, such notes shall also be given confidential status.

(7) Form PSC/APA 6 (2/95), entitled "Audit Document and Record Request/Notice of Intent" is incorporated by reference into this rule and is available at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-01303>. This form is used by auditors when requests are formalized. This form documents audit requests, the due dates for responses, and all Notices of Intent to Seek Confidential Classification.

*Rulemaking Authority 350.127(2) FS. Law Implemented 364.183(1) FS. History--New 3-1-95, Amended*