

COMMISSIONERS:
ART GRAHAM, CHAIRMAN
LISA POLAK EDGAR
RONALD A. BRISÉ
JULIE I. BROWN
JIMMY PATRONIS

STATE OF FLORIDA



GENERAL COUNSEL
CHARLIE BECK
(850) 413-6199

Public Service Commission

July 24, 2015

Kenneth J. Plante, Coordinator
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400

RE: Docket No. 150143-OT; Rules 25-22.028 and 25-40.001

Dear Mr. Plante:

Enclosed are the following materials concerning the above referenced proposed rules:

1. A copy of the proposed rules.
2. A copy of the F.A.R. notices.
3. A statement of facts and circumstances justifying the proposed rules.
4. A federal standards statement.
5. Statement of Estimated Regulatory Costs for the rules.

Mr. Kenneth J. Plante
July 24, 2015
Page 2

If there are any questions with respect to these rules, please do not hesitate to call me at 413-6224.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosanne Gervasi".

Rosanne Gervasi
Senior Attorney

Enclosures

cc: Office of Commission Clerk

1 **25-22.028 Filing, Number of Copies.**

2 ~~(1) Filing. Filing shall be accomplished by submitting the original document and the~~
3 ~~appropriate number of copies, as provided by rule, to the Office of Commission Clerk. Filing~~
4 ~~may be made by U.S. Mail, hand delivery, or courier service. Filings on behalf of companies~~
5 ~~with gross annual operating revenues derived from intrastate business in excess of \$750,000,~~
6 ~~Class A water and sewer utilities, and parties to proceedings affecting these entities, shall also~~
7 ~~include a copy of the document on diskette in word processing or spreadsheet format,~~
8 ~~whichever is appropriate, when filing documents capable of being generated by word~~
9 ~~processing or spreadsheet software. Material for which a request for confidential classification~~
10 ~~is pending under Rule 25-22.006, F.A.C., should not be included in a diskette copy. The~~
11 ~~diskette filing need not recreate document attachments not originally generated for the purpose~~
12 ~~of filing with the Commission, such as exhibits attached to a petition. The copy of the~~
13 ~~document on diskette shall be filed within 1 working day of the date the original printed~~
14 ~~document is filed. Information about the word processing and spreadsheet software preferred~~
15 ~~by the Commission may be obtained from the Director of the Division. Each diskette shall be~~
16 ~~accompanied by a statement specifying the density of the diskette, the operating system and~~
17 ~~the software used to prepare the document on diskette. For purposes of the requirement that~~
18 ~~copies of documents be filed on diskette, "document" means all prehearing statements~~
19 ~~regardless of length, and pleadings, post hearing statements of positions on issues or briefs,~~
20 ~~proposed findings of fact and conclusions of law in excess of 5 pages exclusive of the service~~
21 ~~list. In case of a discrepancy between an original printed document that is filed and the~~
22 ~~document on diskette, the filed original document shall prevail. If the filing is made with the~~
23 ~~presiding officer during the course of a hearing, as provided by subsection 28-106.104(1),~~
24 ~~F.A.C., the responsible party shall ensure that a copy of the document is submitted on diskette~~
25 ~~to the Division within 5 working days. Where a document is served upon a party pursuant to~~

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

1 ~~these rules, its original and the appropriate copies, or, in the case of interrogatories or~~
2 ~~production of documents, a notice of service, shall be filed with the Office of Commission~~
3 ~~Clerk no later than 5 days after service.~~
4 ~~(2) Number of Copies. The original and seven copies of all pleadings shall be submitted to the~~
5 ~~Office of Commission Clerk. However, initial pleadings for increases in rates, except rate~~
6 ~~increases by water and wastewater utilities, shall be filed with 20 copies. The requirement for~~
7 ~~filing 20 copies shall apply to all exhibits appended to the original petition, prepared testimony~~
8 ~~and exhibits, briefs and other supplemental data requested by the Commission.~~
9 *Rulemaking Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57 FS.*
10 *History Formerly 25-2.58, Amended 12-21-81, Formerly 25-22.28, Amended 2-11-92, 5-3-99,*
11 *Repealed* _____.

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 **25-40.001 Exceptions to the Uniform Rules of Procedure.**

2 The following provisions of the Commission’s rules are exceptions to the uniform rules of
 3 procedure:

UNIFORM RULE	COMMISSION RULE THAT IS AN EXCEPTION
4 CHAPTER 28-102, F.A.C. 5 6 AGENDA AND SCHEDULING OF 7 MEETINGS 8 9 AND WORKSHOPS	Rule 25-22.0021, F.A.C. Agenda Conference Participation.
10 CHAPTER 28-102, F.A.C. – AGENDA AND 11 SCHEDULING OF MEETINGS AND 12 WORKSHOPS 13 AND CHAPTER 28-106 –DECISIONS 14 DETERMINING SUBSTANTIAL INTERESTS	Rule 25-22.0022, F.A.C. Oral Argument Rule.
15 Rule 28-102.001, F.A.C. 16 Notice of Public Meeting, Hearing, or 17 Workshop.	Rule 25-22.001, F.A.C. Notice of Meeting or Workshop.
18 Subsection 28-102.002(2), F.A.C. 19 Agenda of Meetings, Hearings, and Workshops.	Rule 25-22.002, F.A.C. Agenda of Meetings.
20 CHAPTER 28-103, F.A.C. 21 RULEMAKING	Rule 25-22.017, F.A.C. Rulemaking Proceeding – Adoption.
22 CHAPTER 28-106, F.A.C. 23 DECISIONS DETERMINING SUBSTANTIAL 24 INTERESTS	Rule 25-22.006, F.A.C. Confidential Information. Rule 25-22.029, F.A.C.

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

1		Point of Entry Into Proposed Agency Action
2		Proceedings.
3		Rule 25-22.0376, F.A.C.
4		Reconsideration of Non-Final Orders.
5		Subsections 25-22.0406(7)-(8) , F.A.C.
6		Notice and Public Information on General Rate
7		Increase
8		Requests by Electric, Gas and Telephone
9		Companies.
10		Subsections 25-22.0407(8) and (10) , F.A.C.
11		Notice of and Public Information for General
12		Rate
13		Increase Requests by Water and Wastewater
14		Utilities.
15		Rule 25-22.060, F.A.C.
16		Motion for Reconsideration.
17	Rule 28-106.104, F.A.C.	Rule 25-22.028, F.A.C.
18	Filing.	Filing, Number of Copies.
19	Rule 28-106.205, F.A.C.	Rule 25-22.039, F.A.C.
20	Intervention.	Intervention.
21	Rule 28-106.208, F.A.C.	Rule 25-22.029, F.A.C.
22	Notice of Hearing.	Point of Entry into PAA Proceeding.
23		Rule 25-22.0405, F.A.C.
24		Notices of Hearings.
25		

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Rule 28-106.212, F.A.C. Subpoenas.	Rule 25-22.045, F.A.C. Subpoenas.
CHAPTER 28-107 LICENSING	Rule 25-22.075, F.A.C. Transmission Line Permitting Proceedings. Rule 25-22.080, F.A.C. Electrical Power Plant Permitting Proceedings.

Rulemaking Authority 120.54(5)(a)3. FS. Law Implemented 120.54(5)(a)3. FS. History—New 4-28-99, Amended 3-28-07, _____.

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-22.028 Filing, Number of Copies

PURPOSE AND EFFECT: Rule 25-22.028, F.A.C. would be repealed and Rule 28-106.104, Filing, would take its place. The Commission initially received a waiver from the Uniform Rules in order to keep Rule 25-22.028, F.A.C. in place because it contains differing filing requirements depending on the size of the utility making the filing. However, with the advent of electronic filing, the reasons for maintaining Rule 25-22.028, F.A.C. have become obsolete. Moreover, pursuant to Rule 28-101.001, F.A.C. the Commission's electronic filing requirements will be outlined in the Commission's Statement of Agency Organization and Operation.

Docket No. 150143-OT

SUMMARY: Among other things, Rule 25-22.028, F.A.C. requires filings on behalf of companies with gross annual operating revenues in excess of \$750,000 to include a copy of the document on diskette, accompanied by a statement specifying the density of the diskette, the operating system and the software used. With the advent of electronic filing, these filing requirements have become obsolete. Therefore, the Commission no longer needs to maintain an exception from the Uniform Rules in order to keep Rule 25-22.028, F.A.C. in place. The Commission's specific electronic filing requirements not contained in the Uniform Rules will be outlined in the Commission's Statement of Agency Organization and Operation, pursuant to Rule 28-101.001, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency.

The SERC examined the factors required by Section 20.541(2)(c), FS, and concluded that the rule repeal will not have an adverse impact on economic growth, business competitiveness, or small business.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 350.01(7), 350.127(2) FS.

LAW IMPLEMENTED: 120.569, 120.57 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rosanne Gervasi, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6224, rgervasi@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-22.028 Filing, Number of Copies.

Rulemaking Authority 350.01(7), 350.127(2) FS. Law Implemented 120.569, 120.57 FS. History—Formerly 25-2.58, Amended 12-21-81, Formerly 25-22.28, Amended 2-11-92, 5-3-99, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Carlotta Stauffer

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 21, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 15, 2015

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-40.001 Exceptions to the Uniform Rules of Procedure

PURPOSE AND EFFECT: In the event that Rule 25-22.028 Filing, Number of Copies is repealed, Rule 25-40.001, F.A.C. would be amended to remove Rule 25-22.028, F.A.C. from the list of Commission rules that are exceptions to the Uniform Rules of Procedure. Docket No. 150143-OT

SUMMARY: 120.54(5)(a)3. F.S. requires the Commission to publish a separate chapter in the FAC that clearly delineates the provisions of the agency's rules that provide exceptions to the Uniform Rules of Procedure. Therefore, in the event that Rule 25-22.028 Filing, Number of Copies is repealed, Rule 25-40.001, F.A.C. would be amended to remove it from the list of Commission rules that are exceptions to the Uniform Rules of Procedure.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency.

The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. The SERC examined the factors required by Section 120.541(2)(c), FS, and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 120.54(5)(a)3 FS.

LAW IMPLEMENTED: 120.54(5)(a)3 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rosanne Gervasi, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6224, rgervasi@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-40.001 Exceptions to the Uniform Rules of Procedure.

The following provisions of the Commission's rules are exceptions to the uniform rules of procedure:

UNIFORM RULE	COMMISSION RULE THAT IS AN EXCEPTION
CHAPTER 28-102, F.A.C. AGENDA AND SCHEDULING OF MEETINGS AND WORKSHOPS	Rule 25-22.0021, F.A.C. Agenda Conference Participation.
CHAPTER 28-102, F.A.C. – AGENDA AND SCHEDULING OF MEETINGS AND WORKSHOPS AND CHAPTER 28-106 – DECISIONS DETERMINING SUBSTANTIAL INTERESTS	Rule 25-22.0022, F.A.C. Oral Argument Rule.
Rule 28-102.001, F.A.C. Notice of Public Meeting, Hearing, or Workshop.	Rule 25-22.001, F.A.C. Notice of Meeting or Workshop.
Subsection 28-102.002(2), F.A.C. Agenda of Meetings, Hearings, and Workshops.	Rule 25-22.002, F.A.C. Agenda of Meetings.

CHAPTER 28-103, F.A.C. RULEMAKING	Rule 25-22.017, F.A.C. Rulemaking Proceeding – Adoption.
CHAPTER 28-106, F.A.C. DECISIONS DETERMINING SUBSTANTIAL INTERESTS	Rule 25-22.006, F.A.C. Confidential Information. Rule 25-22.029, F.A.C. Point of Entry Into Proposed Agency Action Proceedings. Rule 25-22.0376, F.A.C. Reconsideration of Non-Final Orders. Subsections 25-22.0406(7)-(8) , F.A.C. Notice and Public Information on General Rate Increase Requests by Electric, Gas and Telephone Companies. Subsections 25-22.0407(8) and (10) , F.A.C. Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities. Rule 25-22.060, F.A.C. Motion for Reconsideration.
Rule 28-106.104, F.A.C. Filing.	Rule 25-22.028, F.A.C. Filing, Number of Copies.
Rule 28-106.205, F.A.C. Intervention.	Rule 25-22.039, F.A.C. Intervention.
Rule 28-106.208, F.A.C. Notice of Hearing.	Rule 25-22.029, F.A.C. Point of Entry into PAA Proceeding. Rule 25-22.0405, F.A.C. Notices of Hearings.
Rule 28-106.212, F.A.C. Subpoenas.	Rule 25-22.045, F.A.C. Subpoenas.
CHAPTER 28-107 LICENSING	Rule 25-22.075, F.A.C. Transmission Line Permitting Proceedings. Rule 25-22.080, F.A.C. Electrical Power Plant Permitting Proceedings.

Rulemaking Authority 120.54(5)(a)3. FS. Law Implemented 120.54(5)(a)3. FS. History—New 4-28-99, Amended 3-28-07,

NAME OF PERSON ORIGINATING PROPOSED RULE: Carlotta Stauffer

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 21, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: June 9, 2015

STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULES

The Commission was granted an exception from the Uniform Rules of Procedure in order to keep Rule 25-22.028 in place because it contains differing filing requirements depending on the size of the regulated utility making the filing. With the advent of the Commission's electronic filing system, the reasons for maintaining this exception to the Uniform Rules have become obsolete. Therefore, the Commission proposes to repeal Rule 25-22.028 in order for Uniform Rule 28-106.104, Filing, to take its place. Moreover, the Commission proposes to amend Rule 25-40.001 to remove Rule 25-22.028 from the list of Commission rules that are exceptions to the Uniform Rules.

STATEMENT ON FEDERAL STANDARDS

There are no federal standards for these rules.

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 5, 2015
TO: Rosanne Gervasi, Senior Attorney, Office of the General Counsel
FROM: Clyde D. Rome, Public Utility Analyst II, Division of Economics *CDR*
RE: Statement of Estimated Regulatory Costs for Proposed Repeal of Rule 25-22.028 and Amendment of Rule 25-40.001, Florida Administrative Code (F.A.C.)

The recommended rule revisions are intended to streamline the requirements for entities that submit filings to the Commission. Rule 25-22.028, F.A.C., is being recommended for repeal in favor of Rule 28-106.104, F.A.C. (Uniform Filing Rule) The Uniform Filing Rule and the "Filing Documents Electronically" section of the Commission's *Statement of Agency Organization & Operations* provide substantial guidance regarding how materials should be filed with the Commission. Rule 25-40.001, F.A.C., would be amended to delete Rule 25-22.028, F.A.C., from the list of exceptions to the Uniform Rules of Procedure. As noted in the attached Statement of Estimated Regulatory Costs (SERC), the Commission received an average of 8,479 filings annually for the years 2010 through 2014.

It is anticipated that affected entities may benefit from the recommended rule changes. No workshop was requested in conjunction with the recommended rule revisions. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

cc: (Draper, Daniel, Dean, Stauffer, Cibula, SERC file)

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rules 25-22.028 and 25-40.001, F.A.C.

1. Will the proposed rule have an adverse impact on small business?
[120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes

No

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes

No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)1, F.S.]

Economic growth Yes No

Private-sector job creation or employment Yes No

Private-sector investment Yes No

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets) Yes No

Productivity Yes No

Innovation Yes No

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes

No

Economic Analysis: Affected entities may benefit from the recommended rule changes. A summary of the recommended rule revisions is included in the attached memorandum to Counsel.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

From 2010 through 2014, the Commission received an average of 8479 filings per year.

(2) A general description of the types of individuals likely to be affected by the rule.

Potentially affected entities include all persons and organizations who submit filings to the Commission.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

None. To be done with the current workload and existing staff.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

None. The rule will only affect the Commission.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- None
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule.
[120.541(2)(d), F.S.]

- None. The rule will only affect the Commission
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

Affected entities are not expected to incur any additional transactional costs.

E. An analysis of the impact on small businesses, and small counties and small cities:
[120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- No impact on small cities or small counties
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful.
[120.541(2)(f), F.S.]

- None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

- No regulatory alternatives were submitted.
- A regulatory alternative was received from
 - Adopted in its entirety.
 - Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.