

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

NOTICE OF DEVELOPMENT OF RULEMAKING

ALL INTERESTED PERSONS

UNDOCKETED

IN RE: RULE 25-30.4575, F.A.C., OPERATING RATIO METHODOLOGY,  
RULE 25-30.433, F.A.C., RATE CASE PROCEEDINGS,  
RULE 25-30.XXX, F.A.C., WATER AND WASTEWATER COLLECTION USED AND  
USEFUL CONSIDERATIONS

ISSUED: November 30, 2017

NOTICE is hereby given pursuant to Section 120.54, Florida Statutes, that the Florida Public Service Commission staff has initiated rulemaking to create Rule 25-30.4575, F.A.C., Operating Ratio Methodology, to codify the Commission's use of the operating ratio methodology for water and wastewater utilities in staff assisted rate cases. The Commission staff has also initiated rulemaking to amend Rule 25-30.433, F.A.C., Rate Case Proceedings, to change the criteria used by the Commission to determine quality of service in water and wastewater utility rate case proceedings and to update the rule. Additionally, the Commission staff intends to take comments on preliminary rule language for future rulemaking on water transmission, distribution, and wastewater collection used and useful considerations, Rule 25-30.XXX, F.A.C.

The attached Notices of Development of Rulemaking appeared in the November 29, 2017, and November 30, 2017, editions of the Florida Administrative Register.

A staff rule development workshop will be held at the following time and place:

Thursday, December 14, 2017, at 9:30 a.m.  
Florida Public Service Commission  
Gerald L. Gunter Building, Room 105  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

The draft rules and the agenda for the workshop are attached. One or more Commissioners may be in attendance and participate in the workshop. The person to be contacted regarding the rule development is Adria Harper, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850 at (850) 413-6082, aharper@psc.state.fl.us.

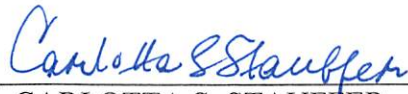
In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate at this workshop should contact the Office of Commission Clerk

NOTICE OF DEVELOPMENT OF RULEMAKING  
UNDOCKETED  
PAGE 2

no later than five days prior to the workshop at 2540 Shumard Oak Boulevard., Tallahassee, Florida 32399-0850 or 850-413-6770 (Florida Relay Service, 1-800-955-8770 Voice or 1-800-955-8771 TDD). Assisted Listening Devices are available upon request from the Office of Commission Clerk, Gerald L. Gunter Building, Room 152.

If a named storm or other disaster requires cancellation of the proceedings, Commission staff will attempt to give timely direct notice to the parties. Notice of cancellation will also be provided on the Commission's website (<http://www.psc.state.fl.us/>) under the Hot Topics link found on the home page. Cancellation can also be confirmed by calling the Office of the General Counsel at 850-413-6199.

By DIRECTION of the Florida Public Service Commission this 30th day of November,  
2017.



---

CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
[www.floridapsc.com](http://www.floridapsc.com)

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

AEH

NOTICE OF DEVELOPMENT OF RULEMAKING  
UNDOCKETED  
PAGE 3

Notice of Development of Rulemaking

**PUBLIC SERVICE COMMISSION**

RULE NO.: 25-30.4575  
RULE TITLE: Operating Ratio Methodology

PURPOSE AND EFFECT: To create a rule to codify the Commission's use of the operating ratio methodology for water and wastewater utilities in staff assisted rate cases.

Undocketed

SUBJECT AREA TO BE ADDRESSED: The use of operating ratio methodology for water and wastewater utilities in staff assisted rate cases.

RULEMAKING AUTHORITY: 367.0814(9) FS.

LAW IMPLEMENTED: 367.0814(9) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Thursday, December 14, 2017, 9:30 a.m.

PLACE: Room 105, Gerald L. Gunter Building, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850. One or more Commissioners may be in attendance and participate in the workshop.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: the Office of Commission Clerk at 2540 Shumard Oak Boulevard., Tallahassee, Florida 32399-0850 or (850)413-6770. Assisted Listening Devices are available upon request from the Office of Commission Clerk, Gerald L. Gunter Building, Room 152. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Adria Harper, Florida Public Service Commission, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6082, aharper@psc.state.fl.us. The agenda for the workshop and a copy of the preliminary draft of the proposed rule will be available on the Commission's website, www.floridapsc.com, on December 1, 2017.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

NOTICE OF DEVELOPMENT OF RULEMAKING  
UNDOCKETED  
PAGE 4

Notice of Development of Rulemaking

**PUBLIC SERVICE COMMISSION**

RULE NO.:      RULE TITLE:

25-30.433      Rate Case Proceedings

PURPOSE AND EFFECT: The rule would be amended to change the criteria used by the Commission to determine quality of service in water and wastewater utility rate case proceedings.

Undocketed

SUBJECT AREA TO BE ADDRESSED: Water and wastewater rate case proceedings.

RULEMAKING AUTHORITY: 350.127(2), 367.121, 367.1213 FS.

LAW IMPLEMENTED: 367.081, 367.1213 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Thursday, December 14, 2017, 9:30 a.m.

PLACE: Room 105, Gerald L. Gunter Building, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850. One or more Commissioners may be in attendance and participate in the workshop.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: the Office of Commission Clerk at 2540 Shumard Oak Boulevard., Tallahassee, Florida 32399-0850 or (850)413-6770. Assisted Listening Devices are available upon request from the Office of Commission Clerk, Gerald L. Gunter Building, Room 152. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: KATHRYN G.W. COWDERY, Florida Public Service Commission, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6216, kcowdery@psc.state.fl.us. The agenda for the workshop and a copy of the preliminary draft of the proposed rule amendment will be available on the Commission's website, www.floridapsc.com, on December 1, 2017.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

NOTICE OF DEVELOPMENT OF RULEMAKING  
UNDOCKETED  
PAGE 5

Notice of Meeting/Workshop Hearing

**PUBLIC SERVICE COMMISSION**

The Florida Public Service Commission announces a workshop to which all persons are invited.

DATE AND TIME: Thursday, December 14, 2017, 9:30 a.m.

PLACE: Room 105, Gerald L. Gunter Building, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850

GENERAL SUBJECT MATTER TO BE CONSIDERED: To take comments on preliminary rule language for future rulemaking on water transmission, distribution, and wastewater collection used and useful considerations. Undocketed.

The contact person for this rule development workshop is: Rosanne Gervasi, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850 at (850) 413-6224, [rgervasi@psc.state.fl.us](mailto:rgervasi@psc.state.fl.us). A copy of the agenda and materials for the workshop will be posted on the Commission's website, [www.floridapsc.com](http://www.floridapsc.com) on December 1, 2017. One or more Commissioners may be in attendance and participate in the workshop.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate at this workshop should contact the Office of Commission Clerk no later than five days prior to the workshop at 2540 Shumard Oak Boulevard., Tallahassee, Florida 32399-0850 or (850)413-6770 (Florida Relay Service, 1(800)955-8770 Voice or 1(800)955-8771 TDD). Assisted Listening Devices are available upon request from the Office of Commission Clerk, Gerald L. Gunter Building, Room 152.

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

25-30.4575 Operating Ratio Methodology.

(1) Operating ratio methodology is an alternative to the traditional calculation of revenue requirement. Under this methodology, instead of calculating the revenue requirement based on a rate of return on the utility's rate base, the revenue requirement includes the utility's operation and maintenance expenses plus a margin of 15 percent of the utility's operation and maintenance expenses.

(2) In rate cases processed under Section 367.0814, F.S., the Commission will determine whether the operating ratio methodology will be used to establish the utility's revenue requirement. When determining whether the operating ratio methodology will be used, the Commission will consider the following factors:

(a) Whether the utility's rate base is less than the utility's operation and maintenance expenses or is negative.

(b) Whether the use of the operating ratio methodology changes the utility's qualification for a staff assisted rate case under Rule 25-30.455(1), F.S. If the use of the operating ratio methodology would cause the utility to no longer qualify for a staff assisted rate case under Rule 25-30.455(1), F.S., the operating ratio methodology will not be used to establish the utility's revenue requirement.

Rulemaking Authority 367.0814(9) FS. Law Implemented 367.0814(9) FS. History-  
New\_\_\_\_\_.

1       **25-30.433 Rate Case Proceedings.**

2       In a rate case proceeding, the following provisions shall apply, unless the applicant or any  
3       intervenor demonstrates that these rules result in an unreasonable burden. In these instances,  
4       fully supported alternatives will be considered by the Commission. Any alternatives proposed  
5       by the utility must be filed with the minimum filing requirements.

6       (1) The Commission in every rate case shall make a determination of the quality of service  
7       provided by the utility by evaluating the. ~~This shall be derived from an evaluation of three~~  
8       ~~separate components of water and wastewater utility operations:~~ quality of the utility's product  
9       (water and wastewater); ~~operational conditions of utility's plant and facilities;~~ and the utility's  
10      attempt to address customer satisfaction. In making this determination, the Commission shall  
11      consider:

12      (a) Department of Environmental Protection (DEP) and county health department  
13      inspections, including sSanitary surveys; for water systems and compliance evaluation  
14      inspections for wastewater systems;

15      (b) DEP and county health department outstanding citations, violations and consent orders  
16      ~~on file with the Department of Environmental Protection (DEP) and county health~~  
17      ~~departments~~ or lack thereof over the preceding 3-year period; ~~shall also be considered.~~

18      (c) DEP and county health department officials' testimony concerning quality of service as  
19      well as; and

20      (d) The testimony of the utility's customers ~~shall be considered.~~

21      (2) In order to ensure safe, efficient, and sufficient service to utility customers, the  
22      Commission shall consider whether the operational conditions of the plant and facilities are in  
23      compliance with Rule 25-30.225, F.A.C.

24      (3)(2) Working capital for Class A utilities shall be calculated using the balance sheet  
25      approach. Working capital for Class B and C utilities shall be calculated using the formula  
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from  
existing law.

1 method (one-eighth of operation and maintenance expenses).

2 ~~(4)(3)~~ Used and useful debit deferred taxes shall be offset against used and useful credit  
3 deferred taxes in the capital structure. Any resulting net debit deferred taxes shall be included  
4 as a separate line item in the rate base calculation. Any resulting net credit deferred taxes shall  
5 be included in the capital structure calculation. No other deferred debits shall be considered in  
6 rate base when the formula method of working capital is used.

7 ~~(5)(4)~~ The averaging method used by the Commission to calculate rate base and cost of  
8 capital shall be a 13-month average for Class A utilities and the simple beginning and end-of-  
9 year average for Class B and C utilities.

10 ~~(6)(5)~~ Non-used and useful adjustments shall be applied to the applicable depreciation  
11 expense. Property tax expense on non-used and useful plant shall not be allowed.

12 ~~(7)(6)~~ Charitable contributions shall not be recovered through rates.

13 ~~(8)(7)~~ Income tax expense shall not be allowed for subchapter S corporations, partnerships  
14 or sole proprietorships.

15 ~~(9)(8)~~ Non-recurring expenses shall be amortized over a 5-year period unless a shorter or  
16 longer period of time can be justified.

17 ~~(10)(9)~~ The amortization period for forced abandonment or the prudent retirement, in  
18 accordance with the National Association of Regulatory Utility Commissioners Uniform  
19 System of Accounts, of plant assets prior to the end of their depreciable life shall be calculated  
20 by taking the ratio of the net loss (original cost less accumulated depreciation and  
21 contributions-in-aid-of-construction (CIAC) plus accumulated amortization of CIAC plus any  
22 costs incurred to remove the asset less any salvage value) to the sum of the annual  
23 depreciation expense, net of amortization of CIAC, plus an amount equal to the rate of return  
24 that would have been allowed on the net invested plant that would have been included in rate  
25 base before the abandonment or retirement. This formula shall be used unless the specific

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



1 | circumstances surrounding the abandonment or retirement demonstrate a more appropriate  
2 | amortization period.

3 |     ~~(11)(10)~~ A utility is required to have the right of access and continued use of own the land  
4 | upon which the utility treatment facilities are located, ~~or possess the right to the continued use~~  
5 | ~~of the land, such as a 99-year lease.~~ Documentation of continued use shall be in the form of a  
6 | recorded warranty deed, recorded quit claim deed accompanied by title insurance, recorded  
7 | lease such as a 99-year lease, or recorded easement. ~~The Commission may consider a written~~  
8 | ~~easement or other cost-effective alternative.~~

9 |     ~~(12)(11)~~ In establishing an authorized rate of return on common equity, a utility, in lieu of  
10 | presenting evidence, may use the current leverage formula adopted by Commission order. The  
11 | equity return established shall be based on the equity leverage order in effect at the time the  
12 | Commission decides the case.

13 |     ~~(13)(12)~~ Nonutility investment should be removed directly from equity when reconciling  
14 | the capital structure to rate base unless the utility can show, through competent evidence, that  
15 | to do otherwise would result in a more equitable determination of the cost of capital for  
16 | regulatory purposes.

17 |     ~~(14)(13)~~ Interest expense to be included in the calculation of income tax expense shall be  
18 | the amount derived by multiplying the amount of the debt components of the reconciled  
19 | capital structure times the average weighted cost of the respective debt components. Interest  
20 | expense shall include an amount for the parent debt adjustment in those cases covered by Rule  
21 | 25-14.004, F.A.C. Interest shall also be imputed on deferred investment tax credits in those  
22 | cases covered by 26 CFR Part 1, s. 1.46-6(b)(2)(i), (3) and (4)(ii) issued May 22, 1986 and  
23 | effective for property constructed or acquired on or after August 15, 1971.

24 | *Rulemaking Authority 350.127(2), 367.121, 367.1213 FS. Law Implemented 367.081,*  
25 | *376.1213 FS. History—New 11-30-93, Amended 12-14-93 \_\_\_\_\_.*

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

1     25-30.XXXX Water Transmission, Distribution, and Wastewater Collection Used and  
2 Useful Considerations.

3     (1) The Commission shall make a used and useful (U&U) calculation for water  
4 transmission and distribution systems combined to establish the cost of providing service.

5     (a) The U&U calculation for water transmission and distribution systems is made by  
6 dividing the customer demand by the maximum capacity of the system.

7     1. Customer demand for water transmission and distribution systems shall be the number  
8 of ERCs connected to these systems, as defined in Rule 25-30.515(8)(b), F.A.C.

9     a. Non-residential connections should be assigned a number of ERCs proportional to their  
10 flows compared to average residential flows.

11     b. Customer demand shall include a growth allowance as defined in Rule 25-30.431,  
12 F.A.C.

13     c. For systems serving only single-family residences, customer demand shall be the  
14 maximum number of lots served by the utility during the test year, plus a growth allowance as  
15 defined in Rule 25-30.431, F.A.C., using the historical number of lots connected as the basis  
16 for the linear regression.

17     2. The maximum capacity of water transmission and distribution systems shall be the  
18 system designed maximum capacity of service on an ERC basis.

19     a. For systems serving only single-family residences, maximum capacity shall instead be  
20 the maximum number of lots the utility is able to serve.

21     (b) A utility's water transmission and distribution system shall be considered 100% U&U  
22 if any of the following provisions are applicable:

23     1. If U&U was set by the Commission at 100% in a previous rate proceeding, and the  
24 circumstances given for that decision have not changed substantially.

25     2. If the transmission and distribution system is fully contributed.

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

1        3. If the service territory the system is designed to serve is built out and there is no  
2 apparent potential for expansion of the service territory. This is indicated by growth no more  
3 than 5% over the past five years and few vacant lots.

4        4. If the calculation for U&U including fire flow and growth is 95% or greater.

5        5. There are no areas of the water transmission or distribution system which could be  
6 wholly removed without impacting the ability to reliably serve customers more than five full  
7 years after the end of the test year.

8  
9  
10       (2) The Commission shall make a U&U calculation for a utility's wastewater collection  
11 system to establish the cost of providing service.

12       (a) The U&U calculation for a wastewater collection system is made by dividing the  
13 customer demand by the maximum capacity of the system.

14       1. Customer demand for a wastewater collection system shall be the number of ERCs  
15 connected to the system, as defined in Rule 25-30.515(8)(b), F.A.C.

16       a. Non-residential connections should be assigned a number of ERCs proportional to their  
17 estimated flows compared to average residential flows.

18       b. Customer demand shall include a growth allowance as defined in Rule 25-30.431,  
19 F.A.C.

20       c. For systems serving only single-family residences, customer demand shall be the  
21 maximum number of lots served by the utility during the test year, plus a growth allowance as  
22 defined in Rule 25-30.431, F.A.C., using the historical number of lots connected as the basis  
23 for the linear regression.

24       2. The maximum capacity of the wastewater collection system shall be the system  
25 designed maximum capacity of service on an ERC basis.

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

1     a. For systems serving only single-family residences, maximum capacity shall instead be  
2 the maximum number of lots the utility is able to serve.

3     (b) A utility's wastewater collection system shall be considered 100% U&U if any of the  
4 following provisions are applicable:

5         1. If U&U was set by the Commission at 100% in a previous rate proceeding, and the  
6 circumstances given for that decision have not changed substantially.

7         2. If the wastewater collection system is fully contributed.

8         3. If the service territory the system is designed to serve is built out and there is no  
9 apparent potential for expansion of the service territory. This is indicated by growth no more  
10 than 5% over the past five years and few vacant lots.

11         4. If the calculation for U&U including growth is 95% or greater.

12         5. There are no areas of the wastewater collection system which could be wholly removed  
13 without impacting the ability to reliably serve customers more than five full years after the end  
14 of the test year.

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.

FLORIDA PUBLIC SERVICE COMMISSION

AGENDA

STAFF WORKSHOP

IN RE: Rule 25-30.4575, F.A.C., Operating Ratio Methodology, Rule 25-30.433, F.A.C, Rate Case Proceedings, and Rule 25-30.XXX, F.A.C., Water Transmission, Distribution and Wastewater Collection Used and Useful Considerations

Thursday, December 14, 2017, at 9:30 a.m.  
Room 105 Gerald L. Gunter Building  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

1. Opening Remarks by Staff and Stakeholders
2. Rule 25-30.4575, F.A.C., Operating Ratio Methodology
  - a. Staff overview of draft rule
  - b. Comments and alternative suggestions from interested persons
  - c. Discussion of suggested changes and timeframes for next steps
3. Rule 25-30.433, F.A.C., Rate Case Proceedings
  - a. Staff overview of rule
  - b. Comments and alternative suggestions from interested persons
  - c. Discussion of suggested changes and timeframes for next steps
4. Rule 25-30.XXX, F.A.C., Water Transmission, Distribution and Wastewater Collection Used and Useful Considerations
  - a. Staff overview of used and useful considerations
  - b. Comments and alternative suggestions from interested persons
  - c. Discussion of suggestions and timeframes for next steps
5. Any Closing Remarks and Adjournment