

OPC Comments to Staff Workshop
Rule Amendments 25-30.029, 25-30.030, 25-30.032, 25-30.033,
25-30.034, 25-30.035, 25-30.036, 25-30.037, 25-30.039, and 25-30.090

These new rules display a lot of staff work to clarify and detail what is needed in all applications regarding certificates. We appreciate the effort put into these draft rules. The comments below are just a few items that we wanted to bring to staff's attention for consideration.

25-30.032 Certificate Applications

Subsection (2) Insert "for" after the word "application" on the first line.

Deleted:

25-30.033 Application for Original Certificate of authorization and Initial rates and Charges

Subsection (1)(u) references "projections used in paragraph (j)1". It appears that the reference should be to (k)1.

Subsection (1)(x) requires "a schedule showing how the proposed rates were developed, including any parent debt adjustment as required by Rule 25-14.004, F.A.C." This is confusing as it appears to refer to billing rates but it also talks about the parent debt adjustment which is an adjustment to expenses. Maybe it should be two separate items. Or, is this meant to address the proposed cost rates or charges included in expenses?

25-30.036 Application for Amendment to Certificate of Authorization to Extend or Delete Service Area

Subsections (2) and (3) are a little confusing as to how they are different. Is there a way to define the difference other than to say (2) is a quick take and (3) is everything else?

25-30.037 Application for Authority to Transfer

Subsection (4)(b) provides for limited requirements in a change of majority organizational control. It appears that the following items were not included but would be important.

Changes in majority organizational control are typically treated as simple applications which are approved as a matter of right. The Commission has typically assumed that a transfer of majority organizational control has no effect on the daily operations of the system. But, this is merely a different structuring of a transfer and may result in significant changes in the utility, just as in other forms of transfer (for instance, the transfer of Sanlando Utilities Corporation in Seminole County to Utilities, Inc. was structured as a transfer of majority organizational control.) While we would contend that rate base should be established in all transfers as the books and records are often not transferred in whole, as represented, we recognize that this may not be practical for transfers of majority organizational control, and are willing to concede that rate base and contract records are not needed in these applications. However, since there is no separate statutory authority that the Commission should look at less information

regarding whether the transfer is in the public interest, we believe that at a minimum, the following items should be looked at in all transfers in order to identify whether the transfer to the new owners will be in the public interest:

(e) The nature of the buyer's business organization, i.e., corporation, limited liability company, partnership, limited partnership, sole proprietorship, association;

(f) The name(s), address(es), and percentage of ownership of each entity which owns or will own more than a 5% interest in the utility;

(g) The date and state of incorporation or organization of the buyer;

(i)6. A provision (statement) that the buyer has or will obtain the books and records of the seller, including all supporting documentation for rate base additions since the last time rate base was established for the utility;

(i)7. A statement that the utility's books and records will be maintained using the National Association of Regulatory Utilities Commissioners Uniform System of Accounts;

(o) A statement from the buyer that it has obtained or will obtain copies of all of the federal income tax returns of the seller from the date the utility was first established or the rate base was last established by the Commission, whichever is later. If the tax returns have not been obtained, a description of the steps taken to obtain the tax returns;

(p) Copies of the most recent sanitary survey and any correspondence in the last 12 months from DEP, the county health department, and the WMD related to environmental compliance. If the system is in need of repair or improvement, the buyer shall provide a list of the improvements and repairs needed and the approximate cost to make them;

(q) Documentation of the utility's right to continued long term use of the land upon which the utility treatment facilities are located. This documentation shall be in the form of a recorded warranty deed, recorded quit claim deed accompanied by title insurance, recorded long term lease, or recorded easement. The applicant may submit a contract for the long term use with an unexecuted or unrecorded copy of the instrument, provided that the applicant files a recorded copy within the time prescribed in the order granting the transfer;