

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: March 23, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Accounting and Finance (L. Smith, Mouring) *ALM*
Division of Economics (Rome) *ES*
Division of Engineering (King) *ES*
Office of the General Counsel (Gervasi) *ES S.M.C.*

RE: Docket No. 160239-WS – Proposed amendment of Rule 25-30.445, F.A.C., General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding.

AGENDA: 04/04/17 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Patronis

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

In 2014, the Florida Legislature enacted sections 367.072, Florida Statutes (F.S.), Petition to revoke certificate of authorization, and 367.0812, F.S., Rate fixing; quality of water service as criterion. Section 367.0812, F.S., requires that in fixing just, reasonable, compensatory, and not unfairly discriminatory rates, the Commission shall consider the extent to which a water utility provides service that meets secondary water quality standards as established by the Department of Environmental Protection (DEP). Section 367.0812(1)(c), F.S., requires the Commission to consider “[c]omplaints regarding the applicable secondary water quality standards filed by customers with the [C]ommission, the [DEP], the respective local governmental entity, or a county health department during the past 5 years.”

The Commission implemented sections 367.072 and 367.0812, F.S., in 2015.¹ The Commission adopted Rule 25-30.091, Florida Administrative Code (F.A.C.), Petition to Revoke Water Certificate of Authorization, and amended Rule 25-30.440, F.A.C., Additional Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase, to require that when a utility applies for a rate increase, it must provide a copy of all customer complaints that it has received regarding DEP secondary water quality standards during the past five years. In addition, Rule 25-30.440(3), F.A.C., requires the submission of the most recent secondary water quality standards test results. Rule 25-30.443(1), F.A.C., Minimum Filing Requirements for Class C Water and Wastewater Utilities, makes Rule 25-30.440 applicable to Class C utilities seeking a rate increase, as well.

To promote clarity and consistency among Commission rules, staff is recommending that the Commission propose to amend Rule 25-30.445, F.A.C., to require that when applying for a limited proceeding, water and wastewater utilities must provide the same information pertaining to secondary water quality standards as are contained in Rule 25-30.440, F.A.C. Staff also recommends the elimination of the requirement contained in Rule 25-30.445(8), F.A.C., that a limited proceeding application shall not be filed for underearnings in lieu of a general rate case.

A Notice of Development of Rulemaking was published on July 27, 2016, in Volume 42, Number 145, of the Florida Administrative Register, after which time Utilities Inc., of Florida (UIF), the Office of Public Counsel (OPC), and Michael Smallridge submitted comments on the draft rule. On December 19, 2016, a second notice was issued to inform interested persons of staff's intent to include the elimination of the requirement in Rule 25-30.445(8), F.A.C., that a limited proceeding shall not be filed for underearnings in lieu of a general rate case. No further comments were received as a result of the second notice. No rule development workshop was requested and none was held.

The Commission has jurisdiction pursuant to sections 120.54, 350.127(2), 367.081, 367.0812, 367.0822, and 367.121, F.S.

¹ See Order No. PSC-15-0055-FOF-WS, issued January 21, 2015, in Docket No. 140205-WS (noticing the adoption of Rules 25-30.091 and 25-30.440, F.A.C.).

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-30.445, F.A.C., General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding?

Recommendation: Yes, the Commission should propose the amendment of Rule 25-30.445, F.A.C., as set forth in Attachment A. (Gervasi, King, L. Smith, Mouring, Rome)

Staff Analysis: Section 367.0812, F.S., requires that in fixing just, reasonable, compensatory, and not unfairly discriminatory rates, the Commission shall consider the extent to which a water utility provides service that meets secondary water quality standards as established by the Department of Environmental Protection (DEP). Section 367.0812(1)(c), F.S., requires the Commission to consider “[c]omplaints regarding the applicable secondary water quality standards filed by customers with the [C]ommission, the [DEP], the respective local governmental entity, or a county health department during the past 5 years.”

Rule 25-30.440(11), F.A.C., Additional Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase, requires that when a utility applies for a rate increase, it must provide a copy of all customer complaints that it has received regarding DEP secondary water quality standards during the past five years. In addition, Rule 25-30.440(3), F.A.C., requires the submission of the most recent secondary water quality standards test results. Rule 25-30.443(1), F.A.C., Minimum Filing Requirements for Class C Water and Wastewater Utilities, makes Rule 25-30.440 applicable to Class C utilities seeking a rate increase, as well.

To promote clarity and consistency among Commission rules, and to assist the Commission in considering the extent to which a utility provides service that meets secondary water quality standards when evaluating an application for a limited proceeding, staff recommends that the Commission propose to amend Rule 25-30.445, F.A.C., to add Paragraph (4)(o), for Class A and B utilities, and Paragraph (5)(h), for Class C utilities, requiring that the minimum filing requirements (MFRs) for a limited proceeding application shall include: “1. A copy of all customer complaints that the utility has received regarding DEP secondary water quality standards during the past five years; and 2. A copy of the utility’s most recent secondary water quality standards test results.” Staff currently obtains this information via data requests after an application for limited proceeding is filed. By requiring this information as part of the limited proceeding MFRs, the number of data requests that would be necessary to process limited proceedings applications should be reduced, thereby streamlining the process for both staff and applicants. Utility ratepayers also should benefit from the Commission’s consideration of secondary water quality standards prior to allowing a utility to move forward with a rate increase via a limited proceeding.

Staff also recommends that Rule 25-30.445(8), F.A.C., which requires that “[a] limited proceeding application shall not be filed for underearnings in lieu of a general rate case,” should be eliminated. Paragraph (8) of the rule could potentially be interpreted to prohibit justifiable increases simply because a utility is in an underearnings position, or would be in an underearnings position if the costs being sought for recovery are incurred, and it suggests that

unless a utility is earning within its authorized range, it would be prohibited from using the limited proceeding process. As such, Paragraph (8) unnecessarily restricts the use of the limited proceeding process, which was designed to save regulatory costs to the utility, its customers, and the Commission. Moreover, Paragraph (6)(b) of the rule provides that in evaluating whether a utility's request is appropriate for a limited proceeding, the Commission will consider "[w]hether the utility has not had a rate case in more than seven years and the requested rate increase exceeds 30 percent." Thus, Paragraph (6)(b) provides adequate safeguards to prevent utilities from inappropriately using the limited proceeding process to avoid a general rate case filing in which all costs of the utility would be fully evaluated.

Other non-substantive changes as shown in the attached draft rule are self-explanatory. For informational purposes, copies of the two forms incorporated by reference in the rule are also attached. Staff has not made any recommended changes to the forms. As shown on page 12, lines 11-13, of the draft rule, the Department of State will provide a hyperlink to these forms for inclusion in the rule, as required by section 120.54(1)(i)3.a., F.S., and Rule 1-1.013(6), F.A.C.

In its written comments, UIF states that it believes that the prior three years, rather than five years, of customer complaints is more consistent with prior Commission practice in file and suspend rate cases, and should be adequate in a limited proceeding to retain consistency. UIF also believes that the rule should include a specific deadline within which the Commission must act on a limited proceeding. UIF reasons that a limited proceeding is currently the only type of rate proceeding without a deadline, and that as a result, limited proceedings are being underutilized because utilities have no expectation on when rate relief will be forthcoming. UIF suggests that a five-month deadline is a reasonable time within which the Commission should be able to rule on a limited proceeding, and summarily suggests that a deadline will help to insulate the Commission from political involvement.

In its written comments, OPC agrees with staff's draft rule language. OPC believes that the inclusion of the staff recommended rule changes to the limited proceeding MFRs will provide a more complete record and additional transparency to the process. OPC states that customer input on these water quality issues plus the most recent test results will not only allow Commission staff to conduct a more thorough evaluation of the case, but will also allow all affected parties and the Commission to gain a greater understanding of issues that are important to water utility customers.

OPC strongly disagrees with UIF's suggestion to include a specific deadline for the Commission to act on limited proceedings. OPC states that both the Florida Legislature and the Commission have already identified instances where a deadline for the Commission to act is warranted. Chapter 367, F.S., requires an eight-month deadline for the Commission to act on petitions for rate relief through full administrative hearings, and a five-month deadline for the Commission to act on proposed agency action proceedings. And the Commission set a 90-day deadline to vote on a proposed agency action recommendation establishing rates in Rule 25-30.456, F.A.C., which addresses staff assistance in alternative rate setting. OPC argues that there are proceedings where flexibility is paramount and no deadline should be set. To OPC's knowledge, the lack of a deadline in limited proceedings does not present a hardship for any party, and UIF's comments are akin to "a solution in search of a problem."

Mr. Smallridge submitted comments on behalf of the eight utilities that he owns.² Mr. Smallridge states that five years is too long of a time to expect the utility to keep every customer complaint. He states that it is hard for some utilities to produce receipts from the past year, much less customer complaints from five years ago, and that a five-year timeframe would be “setting yourself up for failure.” Mr. Smallridge further suggests that the new language on page 12, line 16 of the attached draft rule should specify “A Class A or B water utility’s application for limited proceeding shall also include” instead of “A water utility’s application for limited proceeding shall also include,” to clarify who this provision of the rule applies to, similar to on page 13, line 21 of the draft rule, which states “A Class C water utility’s application for limited proceeding shall also include[.]”

Staff disagrees with UIF’s comment that the prior three years, rather than five years, of customer complaints is more consistent with prior Commission practice in file and suspend rate cases, and should be adequate in a limited proceeding to retain consistency. Staff also disagrees with Mr. Smallridge’s comment that five years is too long of a time for a utility to keep these types of customer complaints. As noted above, the draft rule language is consistent with Rule 25-30.440(11), F.A.C., which requires that when a utility applies for a rate increase, it must provide a copy of all customer complaints that it has received regarding DEP secondary water quality standards during the past five years, and Rule 25-30.443(1), F.A.C., makes this requirement applicable to Class C utilities seeking a rate increase, as well. This rule requirement implements section 367.0812, F.S., which requires the Commission to consider the extent to which a water utility provides service that meets secondary water quality standards when fixing rates. Section 367.0812(1)(c), F.S., requires the Commission to consider “[c]omplaints regarding the applicable secondary water quality standards filed by customers with the [C]ommission, the [DEP], the respective local governmental entity, or a county health department during the past 5 years.” (emphasis added). Moreover, as previously noted, staff currently obtains this information via data requests after an application for limited proceeding is filed. Therefore, only the timing of providing the secondary water quality standards information will be affected by the implementation of the rule amendment, not the nature of the information itself.

Staff further disagrees with UIF’s suggestion to include a five-month deadline within which the Commission must act on a limited proceeding. Staff agrees with OPC that there are statutory deadlines imposed upon the Commission to act within a specified timeframe in certain types of cases, such as in file and suspend rate cases. There is no statutory deadline contained in section 367.0822, F.S., the limited proceedings statute. Moreover, applications for limited proceedings vary in scope and in complexity. Pursuant to section 367.0822, F.S., “[t]he [C]ommission shall determine the issues to be considered during such a proceeding and may grant or deny any request to expand the scope of the proceeding to include other related matters.” Thus, some limited proceedings take considerably longer to process than others, and it is important for the

² Those utilities include: Charlie Creek Utilities, LLC; Crestridge Utilities, LLC; East Marion Utilities, LLC; McLeod Gardens Utilities, LLC; Holiday Gardens Utilities, LLC; Orange Land Utilities, LLC; Pinecrest Utilities, LLC; and West Lakeland Wastewater, Inc.

Commission to have the flexibility to set its own deadlines to act on limited proceeding applications.³

Finally, with respect to Mr. Smallridge's comment to specify on page 12, line 16 of the attached draft rule that Paragraph (4)(o) applies to Class A and B utilities, the inclusion of this language is unnecessary because Paragraph (4) of the rule already specifies that "The following [MFRs] shall be filed . . . for a Class A or B water or wastewater utility," as shown on page 9, lines 24-25 of the attached draft rule. The new language of Paragraph (4)(o) of the draft rule is narrowed to water utilities because the inclusion in limited proceeding MFRs of water-related customer complaints and test results is inapplicable to wastewater only utilities.

Statement of Estimated Regulatory Costs

The Florida Administrative Procedure Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). Section 120.54(3)(b), F.S. An agency must prepare a SERC if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate within one year after implementation of the rule, and shall consider the impact of the rule on small businesses, small counties, and small cities. Id.

Section 120.541(2)(a), F.S., requires a SERC to include an economic analysis showing whether the rule, directly or indirectly, is likely to: 1) have an adverse impact on economic growth, private sector job creation, employment, or investment; 2) have an adverse impact on business competitiveness; or 3) increase regulatory costs in excess of \$1 million in the aggregate within five years after the implementation of the rule. Section 120.541(3), F.S., requires that if the adverse impact or regulatory costs of the rule exceed any of those criteria, the rule shall be submitted to the President of the Senate and Speaker of the House, and may not take effect until it is ratified by the Legislature.

The SERC prepared by staff is included as Attachment B to this recommendation. It indicates that the rule is not expected to adversely impact economic growth, private job sector employment, investment, and business competitiveness during the five-year period following its implementation, and that any transactional costs that might be incurred by affected entities would be de minimis. Based on the SERC, the recommended rules will not require legislative ratification.

³ Compare Order No. PSC-06-0092-AS-WU, issued February 9, 2006, in Docket No. 000694-WU, *In Re: Petition by Water Management Services, Inc. for Limited Proceeding to Increase Water Rates in Franklin County* (approving settlement agreement for third and final phase of limited proceeding water rate increase after phases one and two had already been approved, to recover the cost of building a new water transmission main to connect the utility's wells on the mainland to its service territory on St. George Island, where application for limited proceeding was filed nearly six years earlier, on June 6, 2000) with Order No. PSC-14-0679-PAA-SU, issued December 9, 2014, in Docket No. 140106-SU, *In re: Application for limited proceeding rate increase in Polk County by West Lakeland Wastewater, Inc.* (granting 1.98 percent limited rate increase to recover additional customer billing costs and for operating permit renewal, where application for limited proceeding was filed less than seven months earlier, on May 20, 2014, and contained deficiencies that needed correction before application could be processed).

As required by section 120.541(2)(b)-(e), F.S., Attachment B also addresses the estimated number of individuals and entities likely to be required to comply with the rules, the estimated cost of implementing and enforcing the rules, the estimated transactional costs likely to be incurred by individuals and entities required to comply with the rules, and an analysis of the impact on small businesses, small counties, and small cities.

For the foregoing reasons, staff recommends that the Commission should propose the amendment of Rule 25-30.445, F.A.C., as shown on Attachment A.

Issue 2: Should this docket be closed?

Recommendation: Yes, if no requests for hearing or comments are filed, the rule amendments as proposed should be filed for adoption with the Secretary of State and the docket should be closed.

Staff Analysis: Unless comments or requests for hearing are filed, the rule amendments as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed. (Gervasi)

1 **25-30.445 General Information and Instructions Required of Water and Wastewater**

2 **Utilities in an Application for a Limited Proceeding.**

3 (1) Each applicant for a limited proceeding shall provide the following general information
4 to the Commission:

5 (a) The name of the applicant as it appears on the applicant's certificate and the address of
6 the applicant's principal place of business;

7 (b) The type of business organization under which the applicant's operations are
8 conducted; if the applicant is a corporation, the date of incorporation; the names and addresses
9 of all persons who own 5 percent or more of the applicant's stock; or the names and addresses
10 of the owners of the business.

11 (c) The number(s) of the Commission order(s), if any, in which the Commission most
12 recently considered the applicant's rates for the system(s) involved.

13 (d) The address within the service area where the application is available for customer
14 inspection during the time the rate application is pending.

15 (e) A statement signed by an officer of the utility that the utility will comply with the
16 noticing requirements in Rule 25-30.446, F.A.C.

17 (2) In a limited proceeding application:

18 (a) Each schedule shall be cross-referenced to identify related schedules.

19 (b) Except for handwritten official company records, all data in the petition and
20 application shall be typed.

21 (c) The original and seven copies shall be filed with the Office of Commission Clerk.

22 (3) A filing fee as required in Rule 25-30.020, F.A.C., shall be submitted at the time of
23 application.

24 (4) The following minimum filing requirements shall be filed with the utility's application
25 for limited proceeding for a Class A or B water or wastewater utility:

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

1 (a) A detailed statement of the reason(s) why the limited proceeding has been requested.

2 (b) If the limited proceeding is being requested to recover costs required by a
3 governmental or regulatory agency, provide the following:

4 1. A copy of any rule, regulation, order or other regulatory directive that has required or
5 will require the applicant to make the improvement or the investment for which the applicant
6 seeks recovery.

7 2. An estimate by a professional engineer, or other person, knowledgeable in design and
8 construction of water and wastewater plants, to establish the projected cost of the applicant's
9 investment and the period of time required for completion of construction.

10 (c) A schedule that provides the specific rate base components for which the utility seeks
11 recovery. Supporting detail shall be provided for each item requested, including:

12 1. The actual or projected cost(s);

13 2. The date the item will be or is projected to be placed in service;

14 3. Any corresponding adjustments that are required as a result of adding or removing the
15 requested component(s) from rate base, which may include retirement entries; and

16 4. Any other relevant supporting information.

17 (d) If the utility's application includes a request for recovery of plant in service,
18 accumulated depreciation and depreciation expense, supporting detail shall be provided by
19 primary account as defined by the NARUC Uniform System of Accounts, in accordance with
20 Rule 25-30.110, F.A.C.

21 (e) A calculation of the weighted average cost of capital shall be provided for the most
22 recent 12-month period, using the mid-point of the range of the last authorized rate of return
23 on equity, the current embedded cost of fixed-rate capital, the actual cost of short-term debt,
24 the actual cost of variable-cost debt, and the actual cost of other sources of capital which were
25 used in the last individual rate proceeding of the utility. If the utility does not have an

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1 authorized rate of return on equity, the utility shall use the current leverage formula pursuant
2 to Section 367.081(4)(f), F.S.

3 (f) If the utility is requesting recovery of operating expenses, the following information
4 shall be provided:

5 1. A detailed description of the expense(s) requested;

6 2. The total cost by primary account pursuant to the NARUC Uniform System of
7 Accounts;

8 3. Supporting documentation or calculations; and

9 4. Any allocations that are made between systems, affiliates or related parties. If

10 allocations are made, submit full detail that shows the total amount allocated, a description of
11 the basis of the allocation methodology, the allocation percentage applied to each allocated
12 cost, and the workpapers supporting the calculation of the allocation percentages.

13 (g) Calculations for all items that will create cost savings or revenue impacts from the
14 implementation of the requested cost recovery items.

15 (h) If the utility includes any other items where calculations are required, supporting
16 documentation shall be filed that reflects the calculations or assumptions made.

17 (i) A calculation of the revenue increase including regulatory assessment fees and income
18 taxes, if appropriate.

19 (j) Annualized revenues for the most recent 12-month period using the rates in effect at the
20 time the utility files its application for limited proceeding and a schedule reflecting this
21 calculation by customer class and meter size.

22 (k) A schedule of current and proposed rates for all classes of customers.

23 (l) Schedules for the most recent 12-month period showing that, without any increased
24 rates, the utility will earn below its authorized rate of return in accordance with Section
25 367.082, F.S. The schedules shall consist of a rate base, net operating income and cost of
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existing law.

1 capital schedule with adjustments to reflect those consistent with the utility's last rate
2 proceeding.

3 (m) If the limited proceeding is being requested to change the current rate structure,
4 provide a copy of all workpapers and calculations used to calculate requested rates and
5 allocations between each customer class. The test year shall ~~should~~ be the most recent 12-
6 month period. In addition, the following schedules, which are incorporated herein by
7 reference, from Form PSC/AFD 19-W (11/93), entitled "Class A Water and/or Wastewater
8 Utilities Financial, Rate and Engineering Minimum Filing Requirements", shall ~~should~~ be
9 provided. The schedules can be obtained from the Commission's Division of Accounting and
10 Finance.

11 1. Schedule E-2, entitled "Revenue Schedule at Present and Proposed Rates," is available
12 at [hyperlink].

13 2. Schedule E-14, entitled "Billing Analysis Schedules," is available at [hyperlink]. Only
14 two copies are required.

15 (n) Revised tariff sheets should not be filed with the application.

16 (o) A water utility's application for limited proceeding shall also include:

17 1. A copy of all customer complaints that the utility has received regarding DEP secondary
18 water quality standards during the past five years; and

19 2. A copy of the utility's most recent secondary water quality standards test results.

20 (5) In addition to the requirements stated in subsections (1) through (3), the following
21 minimum filing requirements shall be filed with the utility's application for limited proceeding
22 for a Class C water or wastewater utility:

23 (a) A detailed statement of the reason(s) why the limited proceeding has been requested.

24 (b) If the limited proceeding is being requested to recover costs required by a

25 governmental or regulatory agency, provide a copy of any rule, regulation, order or other
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1 regulatory directive that has required or will require the applicant to make the improvement or
2 the investment for which the applicant seeks recovery.

3 (c) A schedule that provides the specific rate base components for which the utility seeks
4 recovery, if known. Supporting detail shall be provided for each item requested, including:

- 5 1. The actual or projected cost(s);
- 6 2. The date the item will be or is projected to be placed in service;
- 7 3. Any corresponding adjustments, if known, that are required as a result of adding or
8 removing the requested component(s) from rate base, which may include retirement entries;
9 and
- 10 4. Any other relevant supporting information, if known.

11 (d) If the utility is requesting recovery of operating expenses, provide an itemized
12 description of the expense(s), including the cost and any available supporting documentation
13 or calculations.

14 (e) Provide a description of any known items that will create cost savings or revenue
15 impacts from the implementation of the requested cost recovery items.

16 (f) A calculation of the revenue increase including regulatory assessment fees and income
17 taxes, if applicable.

18 (g) Annualized revenues for the most recent 12-month period using the rates in effect at
19 the time the utility files its application for limited proceeding and a schedule reflecting this
20 calculation by customer class and meter size.

21 (h) A Class C water utility's application for limited proceeding shall also include:

- 22 1. A copy of all customer complaints that the utility has received regarding DEP secondary
23 water quality standards during the past five years; and
- 24 2. A copy of the utility's most recent secondary water quality standards test results.

25 (6) In evaluating whether the utility's request is improper for a limited proceeding, the
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existing law.

1 Commission will consider factors such as:

2 (a) Whether the utility's filing includes more than 4 separate projects for which recovery is
3 sought and the requested rate increase exceeds 30 percent. Corresponding adjustments for a
4 given project are not subject to the above limitation;

5 (b) Whether the utility has not had a rate case in more than seven years and the requested
6 rate increase exceeds 30 percent; or

7 (c) Whether the limited proceeding is filed as the result of the complete elimination of
8 either the water or wastewater treatment process and the requested rate increase exceeds 30
9 percent.

10 (7) The utility shall provide a statement in its filing to the Commission which addresses
11 whether the utility's rate base has declined or whether any expense recovery sought by the
12 utility is offset by customer growth since its most recent rate proceeding or will be offset by
13 future customer growth expected to occur within one year of the date new rates are
14 implemented.

15 ~~(8) A limited proceeding application shall not be filed for underearnings in lieu of a~~
16 ~~general rate case.~~

17 *Rulemaking Authority 350.127(2), 367.121(1)(a) FS. Law Implemented 367.081, 367.0812,*
18 *367.0822, 367.121(1)(a), 367.145(2) FS. History—New 3-1-04, Amended*

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Revenue Schedule at Present and Proposed Rates

Florida Public Service Commission

Company:
 Docket No.:
 Test Year Ended:
 Water [] or Sewer []

Schedule: E-2
 Page ___ of ___
 Preparer:

Explanation: Provide a calculation of revenues at present and proposed rates using the billing analysis. Explain any differences between these revenues and booked revenues. If a rate change occurred during the test year, a revenue calculation must be made for each period.

(1) Class/Meter Size	(2) Number Bills	(3) Consumption in MG	(4) Present Rate	(5) Revenues at Present Rates	(6) Proposed Rate	(7) Revenues at Proposed Rates
Residential 5/8" x 3/4" M Gallons 1" Etc. M Gallons Etc.	-----	-----	-----	-----	-----	-----
Total Residential	=====	=====	-----	=====	-----	=====
Average Bill				=====		=====
General Service 5/8" x 3/4" M Gallons 1" Etc. M Gallons Etc.	-----	-----	-----	-----	-----	-----
Total Gen. Serv.	=====	=====	-----	=====	-----	=====
Average Bill				=====		=====
List Other Classes As Above	-----	-----	-----	-----	-----	-----
Totals	=====	=====	-----	-----	-----	-----
Unbilled Revenues				-----		-----
Other Revenue				-----		-----
Misc. Serv. Charges				-----		-----
Total Revenue				-----		-----
Booked Revenue				-----		-----
Difference (Explain)				=====		=====

Billing Analysis Schedules

Florida Public Service Commission

Company:
 Docket No.:
 Test Year Ended:
 Water [] or Sewer []
 Customer Class:
 Meter Size:

Schedule: E-14
 Page ___ of ___
 Preparer:

Explanation: Provide a billing analysis for each class of service by meter size. For applicants having master metered multiple dwellings, provide number of bills at each level by meter size or number of bills categorized by the number of units. Round consumption to nearest 1,000 gallons & begin at zero. If a rate change occurred during the test year, provide a separate billing analysis which coincides with each period.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Consumpt. Level	Number of Bills	Cumulative Bills	Gallons Consumed (1)x(2)	Cumulative Gallons	Reversed Bills	Consolidated Factor [(1)x(6)]+(5)	Percentage of Total
0							
1							
2							
3							

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TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 31, 2017
TO: Rosanne Gervasi, Senior Attorney, Office of the General Counsel
FROM: C. Donald Rome, Jr., Public Utility Analyst II, Division of Economics
RE: Statement of Estimated Regulatory Costs (SERC) for Proposed Amendments to Rule 25-30.445, Florida Administrative Code (F.A.C.).

The purpose of this rulemaking initiative is staff's recommendation of modifications to Commission Rule 25-30.445, F.A.C., General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding. Specifically, staff is recommending the addition of paragraphs 25-30.445(4)(o) and 25-30.445(5)(h), F.A.C., to require utilities seeking a limited proceeding to provide the following as part of the Minimum Filing Requirements (MFRs) submitted with the application: (a) a copy of all customer complaints that the utility has received regarding Department of Environmental Protection (DEP) secondary water quality standards during the past five years, and (b) a copy of the utility's most recent secondary water quality standards test results. Staff also recommends the elimination of the requirement in subsection 25-30.445(8), F.A.C., that a limited proceeding application shall not be filed for underearnings in lieu of a general rate case.

During the 2014 session, the Florida Legislature enacted Senate Bill 272 which was incorporated into Chapter 2014-68, Laws of Florida. Among other things, the legislation created new Section 367.0812, Florida Statutes (F.S.). Section 367.0812, F.S., requires that in fixing rates, the Commission shall consider the extent to which a utility provides water service that meets secondary water quality standards as established by DEP. In accordance with the 2014 statutory changes, the Commission adopted Rule 25-30.440(11), F.A.C., to require a copy of all customer complaints received by the utility during the past five years regarding secondary water quality standards when a Class A or B utility files for a rate increase. Rule 25-30.440(3), F.A.C., requires the submission of secondary standards test results, and Rule 25-30.443(1), F.A.C., requires Class C utilities to provide the information required by Rule 25-30.440, F.A.C., as part of its MFRs.

To promote clarity and consistency among Commission rules, staff is recommending the above mentioned addition of paragraphs 25-30.445(4)(o) and 25-30.445(5)(h), F.A.C., to require that utilities provide the same information pertaining to secondary water quality standards when filing MFRs with applications for a limited proceeding. This information is currently being collected by staff through data requests after the utility's application is filed. Staff believes that by providing additional clarity to Rule 25-30.445, F.A.C., the number of data requests that would

be necessary during the limited proceeding process should be reduced, thereby streamlining the process for both staff and applicants.

Staff also recommends the elimination of the requirement in subsection 25-30.445(8), F.A.C., that a limited proceeding application shall not be filed for underearnings in lieu of a general rate case. As currently written, the rule potentially could be interpreted to suggest that unless a utility is earning within its authorized range, it would be prohibited from using the limited proceeding process. Staff recommends the elimination of the rule so as not to unnecessarily restrict the use of the limited proceeding process, which was designed to save regulatory costs to utilities, their customers, and the Commission.

The attached SERC addresses the considerations required pursuant to Section 120.541, F.S. No workshop was held 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, Shafer, King, Cibula, SERC file)

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rule 25-30.445, 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

For clarification, please see comments in Sections A(3) and E(1), below.

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 <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Private-sector job creation or employment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Private-sector investment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(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 <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Productivity	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Innovation	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(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:

A summary of the recommended rule revisions is included in the attached memorandum to Counsel. Specific elements of the associated economic analysis are discussed below in Sections B through F of this SERC.

In accordance with statutory changes enacted during the 2014 legislative session, the Commission adopted Rule 25-30.440(11), Florida Administrative Code (F.A.C.), to implement provisions of Section 367.0812, Florida Statutes (F.S.), regarding the Commission's consideration during ratemaking proceedings of the extent to which a utility has met secondary water quality standards established by the Department of Environmental Protection (DEP). The Commission is required to consider complaints regarding applicable secondary water quality standards filed by customers with the Commission, DEP, the respective local governmental entity, or a county health department during the past five years (paragraph 367.0812(1)(c), F.S.).

To promote clarity and consistency among Commission rules, staff is suggesting amendments to subsections (4) and (5) of Rule 25-30.445, F.A.C., which would require utilities that apply for a limited proceeding to provide: (a) a copy of all customer complaints that the utility has received regarding DEP secondary water quality standards during the past five years, and (b) a copy of the utility's most recent secondary water quality standards test results. This information is currently being collected by staff through data requests during the course of limited proceedings; henceforth under the recommended rule revisions, utilities would provide the information as part of the Minimum Filing Requirements that accompany the utility's application for a limited proceeding.

Staff also recommends the elimination of the requirement in subsection 25-30.445(8), F.A.C., that a limited proceeding application shall not be filed for underearnings in lieu of a general rate case. As currently written, this rule potentially could be interpreted to suggest that unless a utility is earning within its authorized range, it would be prohibited from using the limited proceeding process.

As discussed in Section D below, additional transactional costs, if any, that potentially may be associated with the recommended rule revisions are expected to be de minimis. Therefore, staff believes that none of the impact/cost criteria established in Paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended rule revisions.

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.

The recommended amendments to Rule 25-30.445, F.A.C., would affect 145 investor-owned water and wastewater utilities that serve approximately 175,000 Florida customers. Utilities which come under the jurisdiction of the Commission in the future also would be required to comply.

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

The 145 investor-owned water and wastewater utilities are located in 37 counties.

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.

Staff's suggested additions of paragraphs 25-30.445(4)(o) and 25-30.445(5)(h), F.A.C., would require utilities applying for a limited proceeding to include a copy of all customer complaints that the utility has received regarding DEP secondary water quality standards during the past five years and a copy of the utility's most recent secondary water quality standards test results as part of the Minimum Filing Requirements that accompany the limited proceeding application. Currently, staff obtains this information via a data request after the application is filed. Although the timing of providing the secondary water quality standards information would be affected, staff believes that potential additional transactional costs, if any, would be de minimis. Staff notes that since 2010, the Commission has received only six applications for a limited proceeding.

Staff believes that by providing additional clarity to Rule 25-30.445, F.A.C., the number of data requests that would be necessary during the limited proceeding process should be reduced, thereby streamlining the process for both staff and applicants. Utility ratepayers also should benefit from the Commission's consideration of secondary water quality standards prior to allowing a utility to move forward with a rate increase via a limited proceeding.

Staff's suggested deletion of subsection 25-30.445(8), F.A.C., would remove language stating that "a limited proceeding application shall not be filed for underearnings in lieu of a general rate case." As currently written, this rule potentially could be interpreted to suggest that unless a utility is earning within its authorized range, it would be prohibited from using the limited proceeding process. Staff recommends the elimination of this rule so as not to unnecessarily restrict the use of the limited proceeding process, which was designed to save regulatory costs to utilities, their customers, and the Commission. No additional transactional costs are anticipated as a result of this rule change. Staff further believes that subsection 25-30.445(6), F.A.C., provides adequate safeguards to prevent utilities from inappropriately using the limited proceeding process to avoid a general rate case filing in which all costs of the utility would be fully evaluated.

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. *[See clarification below.]*
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

While it is difficult to estimate the number of affected entities that would meet the definition of "Small Business" as defined in Section 288.703, F.S., it is reasonable to assume that many of the affected entities would meet the statutory definition and, therefore, potentially could incur additional transactional costs as discussed in Section D, above. However, as noted in Section D above, potential additional transactional costs associated with the recommended revisions, if any, are expected to be de minimis.

(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.