**FLORIDA PUBLIC SERVICE COMMISSION**

**Fletcher Building**

**101 East Gaines Street**

**Tallahassee, Florida 32399-0850**

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

**FEBRUARY 22, 1993**

**TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING**

**FROM : DIVISION OF APPEALS (MOORE)**

**DIVISION OF WATER AND WASTEWATER (HILL)**

**DIVISION OF LEGAL SERVICES (FEIL)**

**DIVISION OF RESEARCH AND REGULATORY REVIEW (MAHONEY, HOPPE)**

**RE:DOCKET NO. 911082-WS - PROPOSED REVISIONS TO RULES 25‑22.0406, 25‑30.020, 25-30.025, 25‑30.030, 25-30.032, 25‑30.033, 25-30.034, 25‑30.035, 25‑30.036, 25-30.037, 25-30.060, 25-30.110, 25-30.111, 25‑30.135, 25-30.255, 25‑30.320, 25‑30.335, 25‑30.360, 25‑30.430, 25‑30.436, 25-30.437, 25‑30.443, 25‑30.455, 25‑30.515, 25‑30.565; NEW RULES 25-22.0407, 25-22.0408, 25-30.0371, 25-30.038, 25-30.039, 25-30.090, 25-30.117, 25-30.432 to 25-30.435, 25-30.4385, 25-30.4415, 25‑30.456, 25-30.460, 25-30.465, 25-30.470, AND 25-30.475; AND REPEAL OF RULE 25‑30.441, F.A.C., PERTAINING TO WATER AND WASTEWATER REGULATION**

**AGENDA:SPECIAL COMMISSION CONFERENCE, MARCH 5, 1993 - CONTROVERSIAL - PARTIES MAY PARTICIPATE**

**RULE PROPOSAL SHOULD NOT BE DEFERRED - HEARING DATES STATUS: RESERVED ARE MAY 24 - 26, 1993**

**FILE NAME: I:\PSC\APP\WP\911082#2.RCM**

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**CASE BACKGROUND**

At the first special agenda conference on these rules on January 14, 1993, staff was directed to make several changes to the recommended rules and to provide responses to a number of inquiries about the rules at this second agenda conference. Additions to the recommendation and the rules are shaded. Except for the case background statement and the shaded sections, the text of this recommendation is a duplicate of the earlier version.

The recommended rules are Attachment 1. The Economic Impact Statement is Attachment 2.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission propose new rules prescribing the notice requirements that are applicable only to water and wastewater rate requests and revise Rule 25-22.0406, which governs all industries, to make it applicable only to the notice required in electric, gas and telephone cases?

**RECOMMENDATION:** Yes, the Commission should propose revised Rule 25-22.0406 and new Rules 25-22.0407 and 25-22.0408. If no comments are filed or hearing requested, the rules should be filed for adoption without hearing.

**STAFF ANALYSIS:** **Rules 25-22.0406 and 25-22.0407 - Notice and Public Information for General Rate Increase Requests** - Staff recommends that the Commission adopt a separate water and wastewater noticing rule primarily for practical reasons. Most of the Commission's rate cases are filed by water and wastewater utilities. The Division of Water and Wastewater and the Division of Legal Services' Water and Wastewater Bureau handle rate case notice questions on almost a daily basis. Often, the problems that arise can be directly attributed to differences between water and wastewater rate cases and rate cases in the other industries. For instance, frequently there is no "service hearing" in a water and wastewater rate case. Due to perceived ambiguity in the meaning of the term "service hearing" in the context of a water and wastewater rate case, it is not unusual for a dispute to arise as to whether Rule 25-22.0406(6), Florida Administrative Code, requires the utility to publish notice of the evidentiary hearing held after the protest of a proposed agency action order.

In addition, the Commission's current rule regarding public access to a utility's minimum filing requirements (MFRs) gives rise to confusion in many water and wastewater rate cases. Current Rule 25-22.0406(3)(a), Florida Administrative Code, requires that the MFRs be kept at the utility's headquarters and at its business offices in cities where service hearings were held in the last case and where service hearings are to be held in the current case. Aside from the minor difficulty parties may again have with the term "service hearing," staff notes that it is not unusual for a water or wastewater utility not to have a business office in its service area.

Finally, another problem endemic to water and wastewater rate cases concerns noticing for a change in service availability charges. It is not unusual for the Commission to adjust a utility's service availability charges in a rate case even though the utility has not requested such a change. Questions about the fairness of the Commission's doing this may arise because, under the current rules, the utility is only required to provide notice to persons potentially affected by a change in service avail-ability charges if the utility proposes the change.

Staff's proposed Rule 25-22.0407 resolves these problem areas. Under proposed section (7), it is clear that the utility must publish notice of any hearing held in or near a utility service area that is included in the rate request. Under proposed section (3), if the utility does not have a business office in a service area, it must place a copy of the petition and MFRs at the main county library, local community center, or other facility that is convenient to the service area and that is willing to provide public access to the information. Under proposed subsection (5)(a), the utility is required to provide the customer notice--which must mention the possibility of the Commission's initiating an adjustment to service availability--to persons potentially affected by a change in service availability.

In addition to answering many of the questions which often arise because of the unique nature of water and wastewater cases, staff's proposed rule simplifies and clarifies the noticing requirements. For instance, staff proposes to change the timing of several noticing requirements. Under the current rule, the utility must "begin" its initial customer noticing within 30 days after the case time schedule is mailed to the utility. Proposed subsection (5)(a) makes it clear that the utility must provide the initial customer notice no later than 50 days after the official date of filing. Thus, the onus is on the utility to find out when the official date of filing is and when the deadline is to have notice completed, not just started.

Current Rule 25-22.0406(3)(a) requires that the utility place a copy of the MFRs at public access areas within 15 days "after being notified that . . . the [MFRs] have been met . . .." Staff's proposed Rule 25-22.0407(3) requires that copies be placed in the public access areas within 30 days of the official date of filing. Also, current Rule 25-22.0406(4)(a), Florida Administrative Code, requires that the utility "distribute" the rate case synopsis "15 days after the time schedule for the case has been mailed to the utility . . .." Staff's proposed subsection (4)(a) of the new rule makes clear that the utility must place the synopsis at the designated locations within 30 days of the official date of filing.

Staff proposes no significant changes regarding who the utility is required to notice. As noted above, staff proposes requiring that the initial customer notice be sent to persons potentially affected by a change in the service availability policy or charges. Under proposed subsection (4)(a), the utility will be required to send the rate case synopsis to the main county library only if the utility was required to place a copy of the MFRs and petition there.

Proposed subsections (8)(a) and (8)(b) clarify that noticing for a hearing after the protest of a proposed agency action order would be, basically, no different than what it would have been if the case went directly to hearing. Section (9) virtually mirrors current Rule 25-22.0406(8) regarding notice of staff assisted rate cases, with the exception that proposed section (9) provides for alternative locations for access to the staff reports similar to the alternatives in proposed section (3) for MFRs.

In addition to giving input at some of the workshops staff conducted, several parties filed written comments to staff's proposed noticing rule. Some of the comments were incorporated into the final draft and some were rejected. The Florida Waterworks Association's April 29, 1992, written comments pertained largely to previous drafts of the rule. For example, the Association suggested that staff not require the utility to send a copy of the MFRs to local governmental authorities. Staff agrees with this and has proposed eliminating the requirement. Southern States Utilities, Inc. (SSU), filed written comments on April 27, 1992. SSU suggested that a utility be required only to inform local governmental authorities that a copy of the MFRs are available upon request. Staff has also incorporated this SSU suggestion.

SSU also suggested that the initial customer notice be combined with the notice of the Commission's authorization of any interim rates. Although staff understands SSU's desire to eliminate sending a separate notice for interim rates, staff does not think it advisable that customers be informed, on the same piece of paper, that the utility has filed for a rate case and has already been granted interim rates, especially when, under SSU's proposal, the combined notice would not be received by the customers until the case is more than two months into the process.

At the hearing in SSU's current rate case, Docket No. 920199-WS, one of SSU's witnesses, in response to a question from a Commissioner, testified that there was at least one notice the utility sent out in its rate case that may not have been necessary. The notice which the SSU witness referred to would be required under proposed subsection (6)(b), which dictates that the customers be sent a separate notice for the "technical" hearing, even when the customers received notice of and an opportunity to testify at a service hearing. Although staff has left subsection (6)(b) in the proposed rule, the Commission may want to consider the necessity of a separate notice for the "technical" hearing in cases where one or more service hearings are held. It may be more practical to require that any service hearing notices contain noticing information, if known, for the "technical" hearing.

In its April 17, 1992, written comments, Public Counsel (OPC) generally advocated that customers and governmental authorities be provided notice about the rate case as soon as possible after the utility files the case. In proposing that notice be complete within 50 days of the official date of filing, staff chose the middle ground between OPC's and the companies' suggestions.

OPC made several specific proposals that staff has rejected. For instance, OPC suggested that a copy of the customer notice be kept with the MFRs and the synopsis. Staff rejected this idea because the synopsis contains much of the information contained in the notice and because the notice is sent directly to the customers. OPC expressed some interest in reducing the number of steps required in a utility's fulfilling its notice obligations. At one of the workshops, the parties discussed the possibility of having notice forms made part of the MFRs, and OPC considers this a good idea. However, staff eventually rejected it for several reasons, including the presence of too many variables involved in each case to come up with a form.

OPC vehemently opposed proposed section (7)'s reducing the required newspaper notice from a display advertisement to a legal notice. Staff thought that reducing the size of the notice would be a way for the utility to save money, especially when the customers will already be receiving direct notice of any hearings. The cost of a display advertisement is generally 40 to 45 percent higher than the cost of the same size legal notice placed in the classified section of a newspaper. (EIS, Attachment 2, page 5)

At the January 14, 1992, Special Agenda, the Commissioners discussed OPC's opposition to staff's proposal in subsection (7) to require the utility to publish legal notice, rather than a display advertisement, in a newspaper of general circulation prior to a hearing. Since the Commissioners disagreed with staff's proposal to reduce the size of the published notice, staff has changed the wording of proposed subsection (7) to require a display advertisement.

In addition, at the special agenda, the Commissioners directed staff to inquire whether the other regulated industries have experienced problems with utility noticing in rate cases and whether the other industries had a practice of filing proof that notice was properly undertaken. The attorneys in the Electric and Gas and Telecommunications Bureaus of the Legal Division did not report experiencing any rate case noticing problems, other than the potential noticing problem which could arise when a utility does not request a rate increase, but the Commission, after an earnings review, decides that one is warranted. In such a case, the utility is not required to provide an initial customer notice because the utility did not request a rate increase. Staff believes that this problem, and variations thereof, are endemic to the other industries where modified minimum filing requirements (MMFRs) are submitted.

The general lack of noticing problems in the other industries may be attributable to a variety of factors. At the special agenda, OPC suggested publicity surrounding rate cases in the other industries as a possible explanation. Whatever the reason for the disparity, staff believes that customer interest in water and wastewater rate cases is generally greater than in rate cases for the other industries, so it stands to reason that customer awareness of noticing is also greater. The attorneys from the Electric and Gas and Telecommunications Bureaus also reported that, although they are not required to, utilities in their industries usually file with the Division of Records and Reporting an affidavit of a utility officer and a copy of a notice as proof that it completed customer noticing and the affidavit of the publishing newspaper(s) as proof that it completed publication noticing.

Staff believes that a separate water and wastewater utility rate case noticing rule is necessary for the reasons stated in its recommendation for the first special agenda. The Commission did not express disagreement with that proposition. However, the Commission may wish to require that water and wastewater utilities file proof of customer and publication noticing. In staff's experience, water and wastewater utilities usually file the same documentation that utilities in the other industries file as proof of proper noticing, so requiring that proof be filed would have no real impact on the utilities.

**Rule 25-22.0408 - (Proposed) Notice for Applications for New or Revised Service Availability Charges or Policies and Notice of Requests for Allowance for Funds Prudently Invested (AFPI) Charges** - The purpose of this proposed rule is to streamline noticing requirements for service availability policy and charge applications, to clarify that the rule applies to filings for both new and revised service availability policy and charges, to clarify that the rule applies when the utility makes a request in conjunction with a rate case, and to make clear that it applies to AFPI filings as well.

The only written comments received regarding this proposed rule came from SSU. SSU suggested that a utility be given 30 days from filing to initiate notice. Staff rejected this idea. The current rule contemplates notice being given prior to or contemporaneous with filing. Staff believes notice should be given contemporaneous with filing since service availability and AFPI cases are generally handled more quickly than rate requests; thus, the persons affected have a better opportunity to review their situations.

**ISSUE 2:** Should the Commission propose the revision of Rules

25‑30.020, 25-30.025, 25‑30.030, 25-30.032, 25‑30.033, 25-30.034, 25‑30.035, 25‑30.036, 25-30.037, 25-30.060, 25-30.111, 25‑30.135, 25‑30.320, 25‑30.335, 25‑30.360, 25‑30.430, 25‑30.436, 25-30.437, 25‑30.443, 25‑30.455, 25‑30.515, 25‑30.565; new Rules 25-30.0371, 25-30.038, 25-30.039, 25-30.090, 25-30.117, 25-30.432 to 25-30.435, 25-30.4385, 25-30.4415, 25‑30.456, 25-30.460, 25-30.465, 25-30.470, and 25-30.475; and repeal of Rule 25‑30.441, F.A.C., pertaining to Water and Wastewater regulation?

**RECOMMENDATION:** Yes.

**STAFF ANALYSIS:** The Commission has for many years attempted to streamline the regulatory process for the water and wastewater industry. We believe the recommended rules go a long way towards achieving this. The attached rules contain many changes and new ideas, however, the broad areas of certification, rate case proceedings, and special assistance deserve special mention.

In the area of certification, we are recommending rule changes that add applicability statements to eliminate confusion about which type of filing is appropriate in amendments to certificates, transfers, and name changes. In addition, we are recommending rule changes relating to issues considered in the transfer of ownership of an existing utility, such as establishing rate base at the time of transfer, codifying Commission policy regarding acquisition adjustments, and implementing a mechanism for larger utilities to acquire small systems and implement compensatory rates at the time of acquisition. Two new rules are recommended that codify existing Commission practice with respect to applications for acknowledgment of a name change and abandonments. Each of the existing certification rules has been reviewed and recommendations made to add--as a required submittal--certain information that is now being obtained by follow-up requests from staff.

For rate case proceedings, we are recommending changes to existing rules and adoption of new rules that codify the methods that will be used by the Commission in rate proceedings for many rate case issues. Our goal is to eliminate these areas of controversy as issues and thereby reduce rate case expense. In brief, we are recommending codification of Commission practice for determining quality of service, method of averaging,

applicability of used and useful, taxes, ownership of land and amortization of non-recurring expenses.

We are also recommending changes to Commission practice through adoption of rules for working capital, imputation of contributions-in-aid-of-construction (CIAC) on the margin reserve and used and useful determinations.

Finally, we have included a recommended new rule and an alternative rule that utilizes a "total company" concept for regulatory purposes. The "total company" concept, simply stated, is that any company with multiple systems is required to file information on all systems when requesting rate relief. If the company is not underearning as a total company, it does not need to file for rate relief. This concept is also used in over-earnings, working capital, construction work in progress (CWIP), and all other issues. We believe major cost savings will result from this change alone.

The most recent Southern States rate case was handled in a manner similar to what we are recommending and, as far as cost is concerned, it was a resounding success. Regardless of the outcome of the docket, rate case expense was a record low of $24,000 per system which, when compared to rate case expense for PPW, Inc. (a similar but much smaller case at $154,000 so far), is a major savings. Our agency alone saved over $50,000 in processing the case.

In the alternative, we are recommending a rule that requires companies with multiple systems to file annually for the Commission to determine the appropriate level of joint and common costs, the appropriate allocation factors, and the resulting allocations to each system. We believe this alternative will also result in major cost savings.

In the area of special assistance, we recommend rule changes that exclude large, multi-system companies from qualifying for a staff assisted rate case (SARC) and that codify current Commission practice regarding delineation of responsibilities of both the utility and the Commission staff in the event of a protested SARC. A new rule utilizing non-rate base regulation for the Class C utilities is also recommended. This new rule reflects a rate setting alternative which is between a price index and a SARC. The recommended procedure compares operating revenues to expenses for rate setting purposes, includes a shorter time frame than a SARC, and caps the allowed revenue increase at 50 percent of test year revenues.

In summary, we believe the recommended rules will reduce regulatory burden, streamline the process resulting in cost savings, and should be proposed for adoption.

**DISCUSSION OF RECOMMENDED RULES**

**25-30.020 Fees Required to be Paid by Water and Wastewater Utilities** - This is a complete revamp of the structure of the filing fees required for water and wastewater applications. In 1989, section 367.145, Florida Statutes, was amended to authorize the Commission to establish fees by rule and to increase the maximum filing fee to $4,500 for any application. The fees currently required by Rule 25-30.020 are based only on the capacity of the system, regardless of the type of application, and provide for a maximum fee of $2,250. The fees contained in staff's recommended rule are based on the capacity of the system as well as the complexity of the type of application and reflect a maximum fee of $4,500. The recommended rule also clearly provides that separate fees are to be paid for water and wastewater service. This provision is not contained in the current rule, although it is our practice to collect separate fees for water and wastewater service. Finally, the rule specifies that for applications for multiple systems, capacity is determined by summing the capacities of all systems included in the application. A definition of equivalent residential connection has been added for the purpose of this rule.

The following schedule illustrates the recommended amount of the fee by type of application and size of company measured by equivalent residential connections (ERCs).

**SCHEDULE OF PROPOSED FILING FEES**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | 0-100  ERCS | 101-200  ERCS | 201-500  ERCS | 501-2000  ERCS | 2001-4000  ERCS | >4000  ERCS |
| ORIGINAL | $750 | $750 | $750 | $1,500 | $2,250 | $3,000 |
| AMENDMENT | $100 | $200 | $500 | $1,000 | $1,750 | $2,250 |
| TRANSFER | $750 | $750 | $750 | $1,500 | $2,250 | $3,000 |
| GRANDFATHER | $100 | $200 | $500 | $1,000 | $1,750 | $2,250 |
| FILE &  SUSPEND | $1,000 | $1,000 | $1,000 | $2,000 | $3,500 | $4,500 |
| SARC | $200 | $500 | $1,000 | $1,000 | $1,000 | $1,000 |
| LIMITED PROCEEDING | $100 | $200 | $500 | $1,000 | $1,750 | $2,250 |
| SERVICE  AVAIL. | $100 | $200 | $500 | $1,000 | $1,750 | $2,250 |
| NAME CHANGE | 0 | 0 | 0 | 0 | 0 | 0 |
| AFPI | 0 | 0 | 0 | 0 | 0 | 0 |

**25-30.025 Official Date of Filing** - The recommended change codifies current Commission practice that a utility has met the minimum filing requirements of any filing when the MFRs are accepted as complete by the Director of the Division of Water and Wastewater.

**25-30.030 Notice of Application** - The revisions change the noticing requirements for original certificates, amendments, and transfers. We recommend replacing the required noticing of surrounding utilities within a 4-mile radius with noticing of privately-owned water and wastewater utilities located within the same county and of certain other governmental bodies and agencies. The Commission will provide a list of the applicable utilities and governmental bodies. We are also recommending that notice be sent by regular mail instead of certified, and that the required number of newspaper notices be reduced from three notices to one. We believe these changes will provide significant cost savings to both the Commission and the industry.

**25-30.032 Applications** - The recommended changes to this rule clarify that an application must be filed for a name change, reduce the number of copies of applications to be filed from 15 to 12, and clarify the applicability of the rule. Reducing the number of copies should result in cost savings.

Staff has verified with the Division of Records and Reporting that 12 copies of the application are needed for distribution. Staff has also examined the possibility of applying the diskette filing rule, Rule 25-22.028, to this filing. We have concluded that it should not apply. Data from applications filed pursuant to this rule are not put into "Lotus-type" spreadsheets and we believe that it would be time consuming as well as costly to do so. We have not, therefore, modified the recommended rule.

**25-30.033 Application for Original Certificate of Authorization and Initial Rates and Charges** - These rule revisions require a utility to provide additional explanation of utility funding, require the use of the uniform system of accounts (USOA) when providing cost projections, and establish three new criteria for certificate applications. They are the use of the base facility charge (BFC) rate structure for metered service, a return on common equity established using the current leverage formula unless another method is adequately supported by the applicant, and requiring an allowance for funds used during construction (AFUDC) rate to be established at the time of initial certification. We believe these recommended changes further the goals of the Commission by attempting to assure a viable utility from the outset and establishing as close to compensatory rates as is practicably possible.

**25-30.034 Application for Certificate of Authorization for Existing Utility Currently Charging for Service** - We are recommending the addition of two new criteria requiring information on existing customers (number served by class and by meter size) and, in cases where the applicant is requesting territory not served at the time of application, statements showing the need for service and whether the provision of service is consistent with the local comprehensive plan. We believe these revisions are consistent with Commission practice and its goal of coordinating efforts with other entities having jurisdiction over this industry.

**25-30.035 Application for Grandfather Certificate** - Our recommended revisions to this rule merely require information to be filed regarding current customers to allow us to better analyze the utility and its future operations.

**25-30.036 Application for Amendment to Certificate of Authorization to Extend or Delete Service** - Our recommended revisions to this rule include an automatic extension of territory provided certain criteria are met, an applicability statement to clarify when an amendment application is required, deletion of the requirement that the applicant attempt to identify potential servers of the territory, and the addition of the statutory requirement that the applicant provide the number of the Commission order setting the utility's rates and an affidavit that the utility has tariffs and an annual report on file with the Commission.

At the January 14th Special Agenda, staff was directed to verify that the customers in areas to be annexed receive notice. Staff has verified that applicants under Rule 25-30.036 are required to provide notice as specified in Rule 25-30.030. Specifically, Rule 25-30.030 requires notice to a multitude of agencies, companies and individuals; section (6) requires notice to the customers being annexed. The recommended rule has not been modified.

**25-30.037 Application for Authority to Transfer** - We are recommending revisions to this rule that clarify its applica-bility, require certain information or statements from the buyer, and clarify the utility's obligation to pay the regulatory assessment fees. We believe these revisions are consistent with current Commission practice and help further the Commission's goal of creating viable business entities that will provide safe, sufficient service at reasonable prices. The changes require the buyer to provide books and records in sufficient detail to establish rate base and if unavailable, a statement detailing the steps taken to obtain the records. The same requirement is included for tax returns going back to the establishment of the utility or the last Commission order establishing rate base. The rule also requires a statement of the condition of the plant and cost information if repairs or upgrades are needed. Finally, we are requiring a copy of the contract if the system is sold to a governmental entity and a list of utility assets not transferred.

Mr. Shreve, OPC, suggested at the January 14th Special Agenda that this rule be amended to require a seller to authorize a buyer to obtain the seller's tax returns. We believe this change unnecessary and a possible deterrent to a sale that could be in the public interest. Moreover, it is no more burdensome for a seller to obtain and provide a buyer with the seller's tax returns directly than it is for the seller to execute the forms necessary to consent to their disclosure by the Internal Revenue Service.

The recommended rule already requires the buyer to obtain the utility's books and records and the seller's federal tax returns in sufficient detail to establish rate base, or to provide a detailed statement of the steps taken to obtain them. If the information is not available and the Commission believes the steps taken by the buyer were less than reasonable, it has the latitude to use an original cost study with imputation to set rate base, set rate base at zero or establish rate base as something in between, if it is supported. It also gives the buyer leverage in negotiating the lowest possible purchase price if the records are not available, since the buyer will be at risk in not knowing at what level rate base will be established.

Although the Commission may have the authority to require a seller to authorize the buyer to obtain the buyer's tax returns, staff believes this would provide no additional protection to the ratepayer, could lessen the leverage the buyer has in negotiations, and could be a deterrent to a sale when one is most needed. That is, in a marginal system where the seller has no desire to be in the business anymore and does not want their personal tax returns obtained, the seller may find it easier to abandon the system or continue owning it but doing nothing. we believe the recommended rule protects the ratepayers, increases the buyer's leverage, and encourages a sale. The recommended rule has not been modified.

**25-30.0371 Rate Base Established at Time of Transfer - and**

**25-30.038 Expedited Application for Acquisition of Existing Small System -** We recommend the adoption of two new rules that relate to establishing rate base at the time of transfer and determining the amount of any acquisition adjustment, and implementing compensatory rates for a purchasing utility at the time of transfer. In these two rules we have attempted to codify current Commission policy on the calculation of acquisition adjustment resulting from transfers and provide a new mechanism encouraging the acquisition of small systems by larger utilities.

Over the years, the Commission has stated its desire to encourage the purchase of small systems by large utilities. In forming its policy, the Commission has recognized the difficulty in operating a small water and wastewater utility as a financial-ly sound business. Most of the problems associated with small utilities can be traced to their size. Small utilities typically are unable to attract the capital necessary to provide adequate service, particularly in the face of increasingly stringent and costly environmental requirements. If they are able to attract capital, the cost is high due to the associated risk of the investment. The operating costs of small utilities are high on a per customer basis because such utilities lack economies of scale that are available to other utilities that are able to spread costs over a larger customer base. In addition, small utilities usually suffer from an inadequate or inexperienced technical and professional staff because the customer base is not large enough to support the salaries.

The Legislature expressed its concern with the proliferation of small water and wastewater utilities in the "Sunset" legisla-tion in 1989. Section 367.045(5), Florida Statutes, provides, in part, that the Commission may deny an application for a certificate if the public can be adequately served by extending or modifying a current system. That section of the statute goes on to say that the Commission may not grant a certificate, or an amendment of certificate, that will be in competition with, or duplication of, any other system unless it first determines that such other system is unable to provide adequate service.

Historically, the Commission has addressed the problem of small systems in several ways. One is to discourage the establishment of small systems (particularly those that will be owned by persons not intending to remain long in the business) by implementing stricter initial certificate requirements and closer scrutiny of such applications. Another way to address the problem is to eliminate small systems by encouraging larger utilities to acquire the existing small systems, particularly if these systems are poorly run operations in need of major improvements.

For this reason, the Commission currently allows the purchasing utility to earn a return on the acquired system's net book value, regardless of the purchase price. This policy provides an incentive to the purchasing utility while also providing certain benefits to the customers of the acquired system, such as an improved quality of service, more professional and experienced utility personnel, elimination of a general disinterest in the utility operations (in the case of developer-owned systems), and more stable rates in the long run due to a reduced cost of debt, economies of scale and more efficient operations.

Rule 25-30.0371 is a new rule that codifies the above Commission policy regarding acquisition adjustments. Specifically, in the absence of extraordinary circumstances, the purchase of a utility at a premium or discount will not affect the rate base calculation.

The rule also defines the term rate base for purposes of transfer cases and includes a provision that the Commission will consider the condition of the utility's assets in determining rate base. This is not specifically current Commission practice. We believe, however, that the condition of the plant at the time of transfer should be taken into account in establishing the rate base (net book value) of the utility assets. If a utility system is in immediate need of major repair or replacement, the value of the system should be reduced to reflect that fact. The rule codifies current Commission practice by further providing that if the buyer does not have original cost documentation in order to establish rate base at the time of transfer, the Commission may set rate base based upon competent substantial evidence reconstructing the original cost and CIAC.

Systems being purchased are often in need of some repair and the rates for service are unrealistically low or nonexistent. Under our current rules, a purchasing utility has to first file an application for approval of the acquisition. This usually takes six to eight months to process. In addition, in most cases, if the purchasing utility wants to increase the rates (or establish rates if none have been charged by the prior owner), a rate case or limited proceeding must be filed which takes another eight months to process. Therefore, the purchasing utility must incur the administrative and legal expense of the acquisition case and subsequent rate case, as well as absorb up to 16 months of losses before compensatory rates can be implemented.

New Rule 25-30.038 is designed to reduce some of this regulatory lag and the resulting expense to the purchasing utility. The rule is available to utilities as an alternative to Rule 25-30.037. It is applicable to any Class A or B utility requesting approval to acquire an existing small system and implement compensatory rates. For purposes of this rule, a small system is defined as one whose total gross annual operating revenue is $150,000 or less for water or wastewater service. Under this recommended new rule, the purchasing utility would apply for approval of a transfer and a limited proceeding to implement or increase rates. The rates that could be implemented would be restricted to either: (1) those approved by the Commission for the buyer in the county in which the system is located, as long as such rates have been set by the Commission in a rate proceeding; or (2) the approximate statewide average rates, which will be approved by the Commission at least annually in a procedure similar to that used to establish the annual price index for use by water and wastewater utilities.

Rule 25-30.038 provides that within 90 days, the Commission will either deny the acquisition of the small system or grant the acquisition and allow the purchasing utility to implement reasonable rates on a temporary basis, subject to refund for a period of one year. In addition, the buyer must keep separate records for the acquired system and file certain schedules contained in the annual report form at the end of one year of operation. At that time, the Commission will set permanent rates and may establish rate base for the acquired system, based upon the information supplied by the buyer.

Numerous comments were received regarding this recommended new rule at the workshops held throughout the state. Many participants were of the opinion that the intent of the rule may be good, but the rule does not make much progress towards resolving the real problem of approving compensatory rates and encouraging the purchase of small systems. In addition, several small companies asked why we had limited this option to Class A and B utilities and did not allow the larger, well-run Class C's to be included. While this rule may not go far enough in resolving existing problems, we are of the opinion that it is an excellent starting point. After we have had some experience with this effort we may modify or extend the option. Until then, we recommend the rule be proposed as written.

With respect to Rule 25-30.0371, the possibility was mentioned at the January 14th Special Agenda that the Commission may want to have more than one policy regarding acquisition adjustment. That is, perhaps the Commission should develop one policy that encourages the acquisition of small companies by larger, more viable companies and develop yet another policy that provides for a sharing of any difference between the purchase price and rate base. We believe these ideas have merit and should be fully explored at the hearing. The recommended rule has not been changed at this time. A five-year history of the acquisition adjustments granted by the Commission is being compiled by staff and will be provided at the hearing.

With regard to Rule 25-30.038, a party at the special agenda asked whether or not section (4) of Rule 25-30.0371 should apply to Rule 25-30.038. Upon investigation, staff has verified that section (4) already applies to Rule 25-30.038. Section (11) of Rule 25-30.038 clearly states that the Commission may establish rate base pursuant to Rule 25-30.0371.

OPC suggested that the Commission require an affidavit by the buyer on the condition of the plant. Staff does not believe the Commission has the statutory authority necessary to require such an affidavit, nor does it believe an affidavit is needed. A statement from the buyer is required by the rule and making false statements to the Commission is already a violation of law.

Commissioners also raised the question why we could not pursue implementing reasonable rates at the time of transfer on a case-by-case basis or as an experiment. We do not believe this is possible because we are not using rate base regulation as the basis for the "reasonable" rates. The statute clearly states that the Commission may by rule use other than rate base regulation for Class C utilities.

Many ideas were raised at the agenda that have merit and should be explored at a hearing. Pending a hearing, staff has not modified either Rule 25-30.0371 or Rule 25-30.038.

**25-30.039 Application for Name Change -** This is a recommended new rule which is intended to clarify the distinction between a name change and a transfer of ownership and to codify the filing requirements. It applies where there is a change of name only, not where there is a change in the ownership or control of the utility or its assets. The filing requirements include information regarding the reason for the name change, verification that there is no change in ownership, a notice to the customers of the name change, and a new tariff reflecting the utility's new name. The Commission acknowledges name changes rather than approving them.

**25-30.060 Application for Exemption from Regulation or Non-jurisdictional Finding -** The recommended addition to the rule requires a statement that the applicant for a reseller exemption is aware of the requirements of the rules and statutes relating to examination and testing of meters. The recommended deletion removes the requirement that to obtain a landlord/tenant exemption the lease must state there is no separate charge for water or wastewater service. We have discovered in processing landlord/tenant exemptions that often leases are silent as to what is included in the rental amount. Rather, leases tend to disclose the extra charges the tenant will be responsible for. This rule already requires a signed statement from the applicant that water or wastewater charges are not specifically contained in the rental charges. We believe these changes will simplify the process and recommend their adoption.

**25-30.090 Abandonments -** This is a recommended new rule that specifies information that must be included in the notice required by statute when a utility intends to abandon. This information includes the reason for the abandonment, the date of the abandonment, and the utility's status with the Department of Environmental Regulation (DER). The rule also contains requirements that the appointed receiver request from the Commission the utility's current tariff and annual report, directs the receiver to file a revised tariff reflecting its name, and codifies that the receiver is subject to Chapter 367, Florida Statutes, and Chapter 25-30, Florida Administrative Code. It also provides for an exemption, upon request, for a govern-mental authority acting as a receiver. This rule and the related statute are intended to help prevent service interruptions to utility customers. We believe the recommended rule also encourages governmental authorities to become receivers by clearly stating that upon request, they will be found exempt from Commission regulation.

At the special agenda, the question of what type of application would be filed if a system that was exempt was subsequently purchased by a party and became jurisdictional. Industry representatives were concerned that the Commission might require an application for a true original certificate. These are very burdensome applications with many filing requirements. At the same time, the Commission expressed concern that we might need all of the information required in an original certificate and wanted to be sure we received the information we needed. Staff does not believe there is a problem.

We have had one occasion that we are aware of where an exempt system became jurisdictional. In that case, we required an application to be filed under Rule 25-30.034, Existing System Charging for Service. We believe this rule is appropriately applied to this type of filing because it requires minimal information from the applicant yet it provides the Commission with the information needed to process the case.

In any event, the Commission may open an investigation (and has previously done so) and re-establish rates on its own motion at any time. Should there be any question about the appropriateness of the rate, rate base, etc., staff would recommend an investigation on the Commission's own motion. We have not modified the recommended rule.

**25-30.110 Records and Reports; Annual Reports -** Revisions to this rule have been deleted at the Commission's direction.

**25-30.111 Exemption for Resale of Utility Service, Annual Report -** The recommended changes to this rule clarify that an exemption as a reseller is not automatic but must be approved by the Commission.

**25-30.117 Accounting for Pension Costs -** This recommended new rule requires utilities that have established, defined benefit plans to account for those costs pursuant to Statement of Financial Accounting Standards No. 87. The goal of this rule is to require accounting for pension plans which is consistent throughout the water and wastewater industry.

**25-30.135 Tariffs, Rules and Miscellaneous Requirements -** We recommend revisions to this rule to clarify what information must be available for customer inspection and to specify the locations where this information is to be available. The rule requires utilities to maintain, at their main in-state business office, current copies of Rule Chapters 25-9, 25-22 and 25-30, Chapter 367, Florida Statutes, and a current copy of the utility's tariffs and maps.

Many comments were received at the workshop regarding the increase in required information resulting from this rule. Also, many participants were concerned about where and how current copies would be obtained. We agree that we are recommending an increase in information maintained by the utility. However, we believe much of the language contained in the rules is duplicated in every tariff. Our goal here is to strip duplicative language from the tariffs and reference the appropriate rules. We believe that it will be easier for utilities to maintain a simplified tariff and the current copies of rules and statutes. In addition, this should be simpler for the customers to understand.

The industry voiced strong opposition to the recommended requirement that system and territory maps be maintained at their main in-state business offices and expressed concern about where and how they would obtain current copies of Rule Chapters 25-9, 25-22, and 25-30, as required by this rule. Staff agreed at the special agenda to eliminate the requirement to maintain maps and to add a provision that the Commission will provide current copies of the rules and Chapter 367, Florida Statutes. This change has been made.

**25-30.255 Measurement of Service for Water Utilities -** We recommend adding the requirement that individual water meters be placed for each separate occupancy unit of certain new establishments for which construction is commenced after January 1, 1994. This requirement is supported by the Water Management Districts (WMDs) and DER. The Commission is also recommending legislation that requires the same thing as this rule.

Many utilities expressed concern at workshops about the tax implications resulting from this requirement and any inconsistencies that may arise if only Commission regulated utilities meet this requirement. While we agree that the recommended changes will have tax impacts, we believe the conservation benefits outweigh these impacts and that the changes should be approved.

The Commission decided at the special agenda not to include the mandatory individual metering requirement in the rules to be proposed. The remaining changes to the rule were to change "sewer" to "wastewater" and that can be accomplished outside of this docket. Therefore, the rule has been removed from this recommendation.

**25-30.320 Refusal or Discontinuance of Service -** The recommended revisions to this rule add a provision that prohibits a utility from discontinuing service if the infraction has been remedied by the customer prior to the arrival of the utility to disconnect service. The goal of this new language is to prevent improper, premature disconnection of service by the utility.

**25-30.335 Customer Billing -** Our recommended revisions remove language that is obsolete and clarify the standard information that is required on customer bills to make it consistent with the other industries. We recommend adding section (9) to clearly require the billing of the base facility charge to utility customers, regardless of whether there is any usage (unless the utility has an approved vacation rate.) This codifies Commission policy that the base facility charge is the minimum bill a customer is required to pay.

**25-30.360 Refunds -** The revisions to this rule codify Commission policy. The recommended rule specifies that a motion for reconsideration temporarily stays a refund and that any unclaimed refunds are treated as cash contributions-in-aid-of-construction (CIAC) to the utility.

At the special agenda, the Commissioners directed staff to inquire whether the electric, gas, or telecommunications industries have experienced problems regarding the timing of a refund when a motion for reconsideration to the order requiring the refund has been filed. Apparently, the only interim rates refund ordered in any recent rate cases was in the Gulf Power case, but the Commission altered its decision on reconsideration, and the refund was obviated. No other refunds have been ordered, consequently, no problems have been experienced.

Staff believes an automatic stay of a refund is necessary in the event reconsideration is sought. Interim refunds in water and wastewater rate cases are relatively frequent. In staff's experience, it is difficult to process a motion for reconsideration in less than 90 days (the period over which refunds have to be completed) and leave enough time for the utility to make the proper calculations and coordinate the refund into a regular billing cycle. Staff's proposed rule would not cost the customers since interest on amounts collected subject to refund begins to accrue upon the collection of interim rates and would continue to accrue while reconsideration was pending. Further, staff notes that under the proposed rule, any motion for reconsideration, not just one filed by a utility, will temporarily stay the refund.

**25-30.430 Test Year Approval -** We recommend two changes to this rule. First, section (3) of the rule relating to prefiled direct testimony is being deleted from this rule and added to Rule 25-30.436(2). We are also recommending the addition of language that allows the Director of the Division of Water and Wastewater to grant extensions for filing MFRs if the extension will not cause the approved test year to be non-representative. We believe these changes will save time and steps and therefore money.

The Commission directed staff to include the requirement that prefiled testimony be filed with the MFRs. We have made this change to Rule 25-30.436.

Chairman Deason asked why the water and wastewater industry should have a test year approval procedure rather than a test year notification procedure like the other industries. The primary reason is that many utilities in this industry lack the sophistication and expertise to select an appropriate test year in all cases. In fact, it was a history of inappropriate test year selection that led to the existing test year approval rule to begin with. The current rule was adopted in 1975 and it has eliminated problems in this industry. It was six years later before a rule was adopted for the communications industry and none was adopted for the electric and gas industries until approximately six months ago, when a test year notification rule for those industries was adopted. Staff believes the test year approval process should be retained for the water and wastewater industry.

**25-30.430 Test Year Notification (Alternative) -** We have provided an alternative Rule 25-30.430 that changes the current test year "approval" process to one requiring only a 90-day notification prior to filing MFRs. This version of the rule completely replaces the request and approval sections with a single section specifying notification requirements.

**25-30.432 Used and Useful in Rate Case Proceedings -** We recommend the adoption of a new rule relating to engineering issues in rate cases. Our intent in recommending this rule is that, in lieu of presenting testimony on the issues, the utilities and the Commission will use the "default" methods and allowances contained in these rules, thereby eliminating issues and reducing rate case expense.

Overall, we believe the adoption of this rule will significantly reduce rate case expense. Used and useful, margin reserve, unaccounted for water, infiltration and fire flow represent a huge portion of rate case expense. If we can adopt a fair, just and reasonable method for calculating allowances for these issues, we believe we will experience significant savings.

Some provisions of this recommended rule codify Commission policy or practice while other provisions establish Commission policy where none has previously been established. Finally, some of these provisions represent changes in current Commission practice or policy. We have tried to specifically identify these areas in this recommendation.

As previously stated, the FWWA has been greatly involved in the development of these rules through participation at the many workshops and submission of written comments, suggestions and proposals. This is particularly true for this rule. In addition to providing draft formulas and modified formulas, the FWWA has prepared a manual for use with this rule. The user's manual provides an excellent explanation of the history and intent of the allowances and formulas, the logic behind the concepts designed into the rule and the "how to" of applying the formulas to a specific utility. A copy of the manual was included with the recommendation for the January 14th Special Agenda.

**Sections (1) - (4)**

Sections (1) - (4) of the recommended rule state the Commission's current practice. The rule states that the Commission shall allow recovery of prudently incurred investments and shall consider DER's design requirements when determining used and useful. Section (4) codifies the Commission's current practice to allow as used and useful, at a minimum, the level of investment that would have been required had the utility designed and constructed the system to serve only existing customers. We believe these statements are all consistent with Commission practice.

**Sections (5) and (6)**

Section (5) begins by defining demand per equivalent residential connection (ERC) as the actual historic demand or the design demand used for permitting, whichever is greater. We believe this to be a new policy statement. The demand per ERC used for permitting is established by DER. DER will use this figure until historical data provided by the utility justifies a change. In our opinion, the recommended rule correctly reflects the demands placed upon the system.

Default Allowances and Formulas

Sections (5) and (6) of this rule contain default allowances and formulas for margin reserve, fire flow, unaccounted for water, infiltration and inflow, and used and useful. As would be expected, these are all highly controversial areas that contain some recommended changes in Commission policy and practice.

Margin Reserve:

For margin reserve we are recommending several changes in Commission practice. We recommend a change from the use of trended customer growth in calculating a margin to the use of a flat 20 percent of capacity for source and treatment facilities. Recognizing that a margin is allowed for many reasons (such as customer growth, changing customer demand characteristics, and DER requirements) and not just the utility's obligation to serve, we believe that the flat 20 percent is a simple, less expensive approach and better reflects the real world requirements placed upon utilities by other governmental agencies.

Further, we recommend that prudently constructed off-site transmission mains and off-site wastewater collection mains be considered 100 percent used and useful and that no margin apply. This is also a recommended change in Commission practice in that it separates the system into transmission and distribution segments and applies a margin/used and useful for both. We believe the transmission mains are built to match the treatment plant design and should not vary by the addition of one more customer or distribution system. To downsize the transmission mains at the time of construction to match a single distribution system, then dig them up and replace them as demand grows would be grossly inefficient and uneconomic (if DER would even allow such a mismatch). Therefore, we recommend the issue be eliminated and this portion of plant be 100 percent used and useful with no margin reserve.

Finally, we recommend that the margin reserve for on-site distribution mains, sewers and laterals be a flat 20 percent unless the distribution system will reach build-out within 36 months. If build-out is to be reached within 36 months, we recommend the distribution systems be considered 100 percent used and useful.

Fire Flow:

For fire flow, we recommend codification of current Commission policy and modification of certain Commission practices. Specifically, the new rule states that fire flow shall be considered in used and useful calculations when requested by the utility. This is current Commission practice. Further, the rule provides for the inclusion of fire flow even if the utility hasn't sufficient capacity, and allows the Commission to withhold the associated revenues until capacity has been increased. The rule also establishes fire flow requirements and minimum allowances. These latter two provisions are modifications to current Commission practice. Currently, the Commission hears testimony on these issues and makes a decision on a case-by-case basis. We believe the recommended rule is a fair public policy and can eliminate this as an issue in rate proceedings and reduce rate case expense.

Unaccounted for Water:

For unaccounted for water, we are recommending the adoption of a new policy statement, codification of current Commission practice and the adoption of a modified practice. Briefly, paragraph (5)(c)1. states a new policy relating to conservation. Paragraphs (5)(c)2. and 3. codify the Commission's definition of unaccounted for water. Paragraph (5)(c)4. of the recommended rule establishes a maximum of 12.5 percent unaccounted for water to be allowed without further justification.

Unaccounted for water is an issue in nearly every case involving a water company. The Commission has long had a practice of allowing 10 percent unaccounted for water and has allowed higher levels when justified by the utility. The recommended rule reflects what we believe to be a fair practice of allowing the Commission's standard 10 percent plus an additional two to three percent which is the American Water Works Association's Standard. This provides for a maximum allowance of 12.5 percent. The FWWA provided comments on this section of the rule offering alternative language. (Attachment 4) The Division of Water and Wastewater agrees with the FWWA's proposed revisions and recommend their inclusion in the rule.

Infiltration and Inflow:

We recommend codification of Commission policy and modification of Commission practice for infiltration and inflow. The Commission currently recognizes both infiltration and inflow but gives an allowance only for infiltration. The recommended rule identifies and defines both infiltration and inflow. It also provides for an allowance for both. The allowances are ten percent for inflow and the design allowance for infiltration as specified in Water Environment Federation Manual of Practice No. 9.

In addition, we have included a subsection (5)(e) that provides for the recovery of the expense of a cost/benefit analysis performed at the direction of the Commission. The rule also establishes the amortization period of the expense at three years.

Used and Useful:

For used and useful, we recommend the adoption of specific default allowances and formulas to determine used and useful for various components of a system. We recommend expanding the used and useful determination to include nine categories for water systems and seven categories for wastewater systems versus the current practice of using two categories. We have also developed separate formulas for small, medium and large water companies.

Since we are recommending the adoption of specific formulas to calculate used and useful as opposed to the general guideline formula currently used, we have had to include many specifics that have historically been handled on a case-by-case basis. The attached User's Manual and examples provide a more detailed discussion of each formula and component.

Specifically, we are recommending the adoption of default formulas for small, medium and large water systems. There are formulas and allowances provided for nine separate plant categories. They are source of supply, treatment, finished water storage, pumping, other water facilities, water transmission, water distribution non-developer related, water distribution developer related and water distribution developer related with mixed developments. For wastewater it was not necessary to differentiate by size, therefore, our recommended rule includes default formulas for seven separate plant accounts only. These are wastewater collection system and pumping non-developer related, wastewater collection system and pumping developer related, wastewater collection system and pumping developer related with mixed developments, wastewater force mains, wastewater treatment, effluent disposal facilities and other wastewater facilities.

In short, we are recommending that all off-site water transmission and wastewater collection systems be 100 percent used and useful. Also, we recommend that "other water and wastewater facilities" be considered 100 percent used and useful. These are items such as emergency generators and auxiliary engines. In addition, for non-developer related utilities, we are recommending the on-site distribution and collection systems be 100 percent used and useful. For developer related utilities, we recommend the included formula approach using a fill-in concept. That is, a distribution or collection main will be a certain percent used and useful based upon the formula using ERCs available, ERCs connected and fill-in lots. Fill-in lots are defined as the total number of unoccupied residential lots on isolatable sections in which at least 25 percent of the lots are active ERCs.

The FWWA has proposed substitute formulas that simplify the process even further (Attachment 5). After examination of these new formulas, the Division of Water and Wastewater agrees with the FWWA and recommend adopting them.

**Section (7) - Definitions**

In section (7), we have recommended the adoption of specific definitions of terms for use with the allowances and used and useful calculations included in the rule. One definition that deserves particular attention is that for the "Average 5 Maximum Days Demand" in subsection (7)(a). This definition calls for an average based upon the maximum day demand over the past five years. We believe this more accurately describes the demands placed upon the system. However, current Commission practice is to limit the average to those five highest days in the test year.

**25-30.433 Rate Case Proceedings** - We recommend the adoption of a new rule that will simplify rate cases and lower rate case expense. This rule sets out how the Commission will address several of the issues involved in rate cases. By codifying the treatment to be accorded these issues as discussed below, they will no longer be issues to be decided through a hearing.

**Section (1) - Quality of Service**

The recommended rule specifies how quality of service will be determined by the Commission. It requires the use of three major components: quality of product, operational condition of facilities, and customer satisfaction. The rule also establishes the criteria that will be used by the Commission for each of the three components.

**Section (2) - Working Capital**

We have provided four different options for calculating working capital. Option 1 codifies current Commission policy and is the option that we recommend. It provides that working capital shall be based on the formula of one-eighth of operation and maintenance expenses, with no provision for deferred debits to be included in the rate base. This option is also supported by Southern States Utilities, Inc.

Option 2 requires Class A and B utilities to use the balance sheet method and Class C utilities to use the formula method. Option 3 requires multiple system utilities with combined annual revenues of $750,000 or more to use the balance sheet method, with all other utilities using the formula method. Option 4 gives the utility the choice of method to use. It provides that the utility may calculate working capital needs by whichever method, either balance sheet or formula, which best reflects the utilities' those needs. This option is supported by the Florida Waterworks Association.

**Section (3) - Debit Deferred Taxes**

Section (3) of this rule addresses deferred debits created due to income taxes associated with used and useful contributions-in-aid-of-construction (CIAC). We believe this deferred debit to be material to most utilities having to pay the tax. Therefore, we recommend that the portion of the deferred debits associated with used and useful CIAC be netted against all deferred credits. If the resulting difference is a credit, then the amount will be included in the capital structure at zero cost. If the resulting difference is a deferred debit, it will be included in the rate base.

The Florida Waterworks Association believes that all deferred debits should be included in the rate base and all deferred credits should be included in the capital structure. They believe that a mismatch occurs when only used and useful deferred debits are netted against all deferred credits, and the resulting balance is a deferred debit included in the rate base. This is because the capital structure is typically larger than the rate base and when the pro-rata reduction to make them equal is made, the deferred debits are further reduced by non-used adjustments. This is a classic case of tracing funds, which the Commission has historically not done and is no different than other adjustments to rate base that get further reduced by the pro rata reduction. The Commission makes used and useful adjustments to both plant and CIAC, then reduces the capital structure to match. As the Commission does not trace the funds in the capital structure for these adjustments, we do not see any rationale for tracing the funds in this one instance.

Southern States maintains that the regulatory treatment should be consistent, that offsets and netting of deferred taxes should be applied to either the capital structure or the rate base, but not both.

We believe that our recommended approach is consistent with Commission policy on rate base and capital structure. We do not believe that the concerns of the utilities are material and to make adjustments as they propose would require the Commission to trace funds in the capital structure.

**Section (4)**

Section (4) codifies the Commission's current policy regarding the averaging method to be used in rate cases. The rule requires use of the simple beginning and end of year average. The Commission has previously decided that the additional detail provided by a 13-month average does not justify the expense for this industry.

**Section (5)**

Section (5) codifies current Commission practice by requiring used and useful percentages to be applied to the appropriate depreciation expense accounts.

**Section (6) - CIAC**

Two options are offered governing the specific treatment of CIAC when a margin reserve is included. We recommend Option 1, which states that CIAC will not be imputed on the margin reserve calculation. This is a recommended change in Commission practice.

The margin reserve is included for many reasons including customer growth, changes in customer demand characteristics and DER requirements. A utility must maintain a portion of plant as a reserve. It has long been held by the Commission that CIAC should be imputed when a reserve is allowed because when a customer connects to the system, the customer pays the service availability fees and the utility has no investment. Even if this were true in the past, it certainly is not true now. First, when that next customer connects to the system and pays service availability charges, the utility must have additional capacity to serve the next customer. This continues throughout the life of the utility. The utility must always maintain investment in plant to serve the next customer. Moreover, DER is and has been requiring expansion of plant before a utility reaches 100 percent of its capacity. We believe that the correct policy is to recognize that investment, and not to offset the margin by imputation of CIAC.

Option 2 basically codifies current Commission practice. It specifies that CIAC will be imputed on the margin and establishes specific parameters for imputation.

**Sections (7) - (11)**

The remaining sections of Rule 25-30.433 codify current Commission practice for many issues. Briefly, the rule provides that income taxes are not allowed for companies that do not pay them, it establishes an amortization period for non-recurring expenses of five years and an amortization period for forced abandonments, it requires a utility to own the land upon which the treatment plant is located or possess the right of continued use, and it adopts use of the leverage formula for determining a utility's return on equity.

**25-30.434 Application for Allowance for Funds Prudently Invested (AFPI) Charges -** We recommend adoption of this new rule to codify the filing requirements for an application for AFPI. The rule defines AFPI and requires applicants to provide the minimum information that is needed by staff to analyze the utility's requested rates. Section (4) specifies a beginning date for accruing the AFPI charge and Section (5) provides a presumption that it is prudent for a utility to have an investment in future use plant for no longer than five years beyond the test year.

**25-30.435 Application for a Rate Increase by an Applicant that Owns Multiple Systems (Alternative Rules) -** This new rule sets out the filing requirements for rate increases for companies that own multiple systems. It requires the applicant to file the required information on all jurisdictional systems regardless of whether the applicant is seeking an increase for all systems. It also requires that any rate increase or decrease be based on the total earnings of all the applicant's systems.

The goal of this rule is to require water and wastewater utilities to file one application that covers all of their systems. Staff believes this will reduce rate case expense on a system basis and will result in major cost savings to both the industry and the Commission. We also believe that it will have the effect of reducing the number of times that a utility files a rate case while increasing our ability to review a large company for potential overearnings.

Comments were made at several of the workshops that this proposal would do nothing but drive rate case expense up and subject the utility and the Commission to criticism. We do not agree. While we do not yet have rate case expense data for the current Southern States Utilities (SSU) case, the previous SSU case involving multiple systems was the least expensive case the industry has had in years.

Finally, we have provided an alternative rule for utilities with multiple systems. In short, the alternative requires utilities with multiple systems that intend to file rate cases within 12 months to file information that allows the Commission to determine the appropriate level of joint and common costs, the appropriate allocation factors, and the allocations to each system. Our belief is that while a utility would still file for rate relief by system, the issues relating to all joint and common costs would have been decided and would not be a part of the individual filings.

**25-30.436 General Information and Instructions Required of Class A and B Water and Wastewater Utilities in an Application for Rate Case -** The changes to this rule were designed to reduce rate case expense. The changes require the following:

1.Prefiling direct testimony within 30 days of meeting the minimum filing requirements unless the PAA option is chosen;

2.The setting of a return on equity even if there is no equity in the capital structure;

3.Information on all allocations of costs;

4.Information on land ownership; and

5.Information on final rate case costs.

At the special agenda, Commissioners stated their desire to have direct testimony filed with the utilities' MFRs and asked staff to research what the requirements are in the electric and communications industries. Prefiled direct testimony is due with the petition in the other industries. We see no reason for the requirement to be different for the water and wastewater industry and have revised the recommended rule to reflect this change.

**25-30.437 Financial, Rate and Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase -** The changes to this existing rule clarify the requirements and codify the use of the base facility and usage charge rate structure. The modifications should result in cost savings as utilities will know what information must be filed when requesting uniform rates and designing proposed rates.

**25-30.4385 Additional Rate Information Required in Application for Rate Increase -** This new rule requires the utility to file tariff sheets in rate case proceedings.

**25-30.441 Engineering Information Required in Application for Rate Increase by Utilities Seeking to Recover the Cost of Investment for Plant Construction Required by Governmental Authority -** We recommend repeal of this rule and replacement of its provisions with a new rule, Rule 25-30.4415. The existing rule is confusing and requires information the Commission does not need.

**25-30.4415 Additional Information Required in Application for Rate Increase by Utilities Seeking to Recover the Cost of Investment in the Public Interest -** This new rule replaces Rule 25-30.441. It lists the information and documents that must be provided to the Commission and permits utilities to support the cost of their investment with an estimate of a professional engineer or a person knowledgeable in design and construction of plant.

**25-30.443 Minimum Filing Requirements for Class C Water and Wastewater Utilities -** Adoption of the recommended changes to this existing rule should result in cost savings to the Commission and the industry. The proposed changes require the following:

1.The use of the base facility and usage rate structure;

2.Information on final rate case costs;

3.Separate calculations for interim rates; and

4.The information needed when requesting uniform rates.

**25-30.455 Staff Assistance in Rate Cases -** We recommend three revisions to this rule: 1) to exclude large multi-system companies from filing for staff assisted rate cases (SARCs) for their smaller, single systems when it happens to be to the utility's advantage for that system standing alone; 2) to include a reference to section 367.0814(4), Florida Statutes, which conditions a SARC on the company not protesting the proposed agency action order as long as a revenue increase is approved; and 3) to codify current Commission practice regarding allowance of prudent rate case expense for SARCs and delineate the responsibilities of both the utility and the Commission staff in the event of a protested SARC. We believe that clarification of responsibilities will reduce the Commission's costs by keeping protested SARC's on schedule, improving the quality of post-protest filings, and making clear to Class C utilities that staff cannot perform as a utility advocate during the hearing process.

There was a lengthy discussion at the special agenda about the role of staff in a Staff Assisted Rate Case (SARC), the rights and role of the utility and the authority of the Commission. Mr. Shreve, OPC, asked that the rule require the staff to testify in support of their recommendation if the proposed agency action (PAA) was protested. He further suggested that the utility be required to provide testimony in support of the information used by the staff in preparing their recommendation. Mr. Shreve also suggested the rule require arbitration between the parties with a Commissioner sitting as the arbitrator. The Commission directed staff to look into these suggestions.

The rule as recommended provides for most of what Mr. Shreve suggested. It does not require arbitration. It does require the utility to adopt the PAA order, at a minimum. It also requires the utility to sponsor a witness to support all source documentation provided to and used by staff in preparing their recommendation, audit, etc. It further requires the utility to present factual support for any issue that it takes a position on that is different than the order.

The recommended rule also delineates the role staff is required to take if the PAA order is protested. Specifically, the rule requires the staff to provide testimony explaining and supporting its analysis in the recommendation and requires staff to provide factual testimony supporting any position it wishes to take that is different from the original recommendation. The rule also requires staff to provide the utility with materials and assistance in preparing its testimony and exhibits.

We believe the only area raised by Mr. Shreve that the recommended rule does not currently address is that of arbitration. We agree that this is an interesting concept that should be considered. We are not convinced that the Commission has the authority to order parties to binding arbitration, however, or that arbitration would be appropriate in this rule.

Substantially affected parties have the right to be heard, and a right to a section 120.57 hearing before the full Commission or a panel assigned by the Chairman. The statute does not provide for an arbitrator. Since the rule provides an option that may be elected by a utility, it is possible the agency could make arbitration a condition of the election, however, amendment of Chapters 120 and 350 would be necessary. More legal research is needed, but in any event, staff does not believe that binding arbitration would be appropriate for SARCs.

SARCs have worked well for nearly ten years. Over this time period very few have gone to hearing. The recommended modifications to this rule are a direct result of the Commission's recent experience in going to hearing with SARCs. We believe we should allow time for these changes to work and monitor their success before we make a change as radical as requiring binding arbitration.

There is already a reluctance in the industry to use staff assistance in rate relief. We believe this is evidenced by the increase in number of eligible Class C utilities that are filing for file and suspend rate cases. We believe that adding a binding arbitration requirement would severely reduce the effectiveness of this program. The concept may, however, do well in the alternative rate setting program we have recommended in new Rule 25-30.456.

**25-30.456 Staff Assistance in Alternative Rate Setting -** We recommend the adoption of this new rule relating to alternative regulation for Class C utilities. We have developed a rate setting alternative that is something between an index and a full SARC. The Legislature created the opportunity for this type of regulation in 1989 by enacting section 367.0814(7), Florida Statutes, authorizing the Commission to establish standards and procedures by rule for alternative rate setting for small utilities.

This rule tracks the existing and recommended rules for staff assisted rate cases regarding qualifications, eligibility and the determination thereof, and procedures in the event of a protest of the initial PAA decision in the case. The points of departure from the SARC rules include the statement that operating revenues will be compared to expenses for the purposes of establishing rates rather than the current rate base method. In addition, in an attempt to make this method faster and less costly to the Commission and the utility, and less likely to be protested, other conditions have been established. The rule states that the Commission will vote on a PAA recommendation within 90 days of the official filing date. This provision is included to provide the utility with assurance that the process will result in a faster turnaround than the existing staff assisted rate case process which can take up to 150 days to get to a Commission vote.

To make the process more acceptable to customers and therefore decrease the likelihood of a protest, a maximum level of increase of 50 percent of test year operating revenue has been included. Another condition states that in the event of a protest the maximum will be removed and the utility will be given the option of having rates set on rate base, thus increasing the likelihood of greater increases. It is hoped that this condition will decrease the possibility of a hearing, which can be very expensive for all parties.

Very few comments were received regarding this new recommended rule at the workshops held throughout the state. We hope that by providing the utility with another tool with which to keep rates closer to compensatory levels, we will be able to mitigate "rate shock", lower rate case expense, and reduce the Commission time invested. We also believe that a byproduct will be less costly regulation, particularly since an audit will not be required and the timeframe will be shorter.

**25-30.460 Application for Miscellaneous Service Charges -** We recommend the adoption of this new rule to codify existing Commission practice. The new rule applies to all utilities and prescribes the use and availability of miscellaneous service charges for service.

**25-30.465 Private Fire Protection Rates -** We recommend the adoption of this new rule to codify the existing Commission practice of charging one-third the base facility charge for private fire protection. This new rule should provide cost savings by eliminating a rate case issue.

The Florida Fire Sprinkler Association, Inc., filed comments and alternative language to this rule. They have requested that no charge apply for fire protection service. While we agree that fire protection is a good thing, we cannot support its provision at no cost.

At the special agenda, Mr. Buddy Dewar of the Florida Fire Sprinkler Association asked the Commission to modify the recommended rule to exclude from specific charges sprinkler systems for private fire protection. Mr. Dewar explained how correctly installed and working sprinkler systems extinguish fires more quickly and with less overall water than pump trucks and hydrants. The Commissioners expressed a desire to learn more about these systems and the possible long term savings to customers. Staff was directed to make this an issue in the upcoming hearings and to provide as much information as possible. The recommended rule has been left unchanged pending the hearing.

**25-30.470 Calculation of Rate Reduction After Rate Case Expense is Amortized -** The adoption of this new rule will implement the statutory mandate of 367.0816, Florida Statutes (1991), requiring amortization of rate case expense over a period of four years, followed by a reduction in rates.

**25-30.475 Effective Date of Approved Tariffs -** This new rule section which specifies the effective dates for tariffs filed for recurring and nonrecurring rates and charges. The rule codifies current Commission policy.

**25-30.515 Definitions -** The changes to this rule supplement the existing definition of Guaranteed Revenue Charge and add a definition of Plant Capacity Charge.

**25-30.565 Application for Approval of New or Revised Service Availability Policy or Charges -** This rule has been revised to reduce the number of application copies required to be filed from 15 to 12, to substitute, by reference, the notice provisions of recommended new Rule 25-22.0408 for the existing section prescribing notice requirements, and to delete unnecessary language about the legal burden required to justify the request.

**ISSUE 3:** Should the rules be filed with the Secretary of State and the docket be closed if no comments or requests for hearing are filed?

**RECOMMENDATION:** Yes.

**STAFF ANALYSIS:** If no comments or requests for hearing are timely filed, the rules as proposed may be filed for adoption with the Secretary of State and the docket may be closed.

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**25‑22.0406 Notice and Public Information on General Rate Increase Requests by Electric, Gas and Telephone Companies.**

(1) The provisions of this rule shall be applicable to all requests for general rate increases by electric, gas~~, water and sewer utilities~~ and telephone companies subject to the Commission's jurisdiction.

(2) Upon filing a petition for a general rate increase, the utility shall mail a copy of the petition to the chief executive officer of the governing body of each municipality and county within the service area affected.

(3)(a) Within 15 days after it has been notified by the Commission that the Minimum Filing Requirements (MFRs) have been met, the utility shall place a copy of the MFRs at its official headquarters and at its business office in each municipality in which service hearings were held in the last general rate case of the utility. Within 15 days after the time schedule has been mailed to the utility, copies of the MFRs shall be placed in the utility business office in each additional city in which service hearings are to be held. Upon customer request a copy of the MFRs shall be placed in a utility business office not located in a city where a service hearing is to be held. The copies of the MFRs shall be available for public inspection during the utility's regular business hours.

(b) In addition to the locations listed above, the Commission may require that copies of the MFRs be placed at other specified locations.

(4)(a) Within 15 days after the time schedule for the case has been mailed to the utility, the utility shall prepare and distribute a synopsis of the rate request. The synopsis shall be approved by the Commission or its staff prior to distribution and shall include:

1. A summary of the section of the MFRs showing a comparison of the present and proposed rates for major services;

2. A statement of the anticipated major issues involved in the rate case;

3. A copy of the executive summary filed with the MFRs.

4. A description of the ratemaking process and the time schedule established for the rate case;

5. The locations at which complete MFRs are available.

(b) Copies of the synopsis shall be distributed to the same locations as required for the MFRs, to the main county library within or most convenient to the service area and to the chief executive officer of each county and municipality within the service area affected.

(5) Within 30 days after the rate case time schedule has been mailed to the utility, the utility shall begin sending a notice approved by the Commission or its staff to its customers containing:

(a) A statement that the utility has applied for a rate increase and the general reasons for the request;

(b) The locations at which copies of the MFRs and synopsis are available;

(c) The time schedule established for the case, and the dates, times and locations of any hearings that have been scheduled; and

(d) A comparison of current rates and service charges and the proposed new rates and service charges.

l. Such notice shall be completed at least l0 days prior to the first scheduled service hearing.

(6) At least 7 days and not more than 20 days prior to each service hearing, the utility shall have published in a newspaper of general circulation in the area in which the hearing is to be held a display advertisement stating the date, time, location and purpose of the hearing. The advertisement shall be approved by the Commission or its staff prior to publication.

(7) When the Commission issues proposed agency action and a hearing is subsequently held, the utility shall give written notice of the hearing to its customers at least 14 days in advance of the hearing. This notice shall be approved by the Commission or its staff prior to distribution.

~~(8) Staff Assisted Water or Sewer Rate Requests. The following is applicable to a staff assisted rate request for a water or sewer utility as provided for in Rule 25‑10.180, F.A.C.~~

~~(a) Upon receipt of the staff reports, the utility shall place copies of the application and staff reports, including a comparison of the present and proposed rates, at its offices. The copies shall be available for public inspection during the utility's regular business hours.~~

~~(b) At least 14 days prior to the customer meeting, the utility shall send a notice to its customers containing:~~

~~1. The time, date, place and purpose of the meeting;~~

~~2. A statement that the utility has applied for a rate increase and the general reasons for the increase;~~

~~3. The location at which copies of the application and staff reports are available;~~

~~4. A comparison of the present and proposed rates;~~

~~5. A statement that any customer comments concerning the rate increase should be addressed to the Commission Clerk. The address and telephone number of Clerk shall be provided.~~

~~6. The utility's address, telephone number and business hours.~~

~~(c) Notice of the customer meeting shall be approved by the Commission or its staff in advance of distribution.~~

(8)~~(9)~~ After the Commission's issuance of an order granting or denying a rate change, the utility shall give notice to its customers of the order and the revised rates. The notice shall be approved in advance by the Commission or its staff and transmitted to the customers with the first bill containing the new rates.

Specific Authority: 350.127(2) and 366.05, F.S.

Law Implemented: 364.035(1) and 366.06, F.S.

History: New 09/27/83, formerly 25‑22.406, Amended .

**25-22.0407 Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities.**

(1) This rule applies to all requests for general rate increases made by water and wastewater utilities.

(2) Upon filing a petition for a general rate increase, the utility shall mail a copy of the petition to the chief executive officer of the governing body of each municipality and county within the service areas included in the rate request. Each copy of the petition shall be accompanied by a statement that a copy of the minimum filing requirements (MFRs) when accepted by the Commission can be obtained from the petitioner upon request.

(3) Within 30 days after the official date of filing established by the Commission, the utility shall place a copy of the petition and the MFRs at its official headquarters and at any business offices it has in the service areas included in the rate request. Such copies shall be available for public inspection during the utility's regular business hours. If the utility does not have a business office in a service area included in its rate request, the utility shall place a copy of the petition and the MFRs at the main county library, the local community center or other appropriate location which is within or most convenient to the service area and which is willing to accept and provide public access to the copies. The Commission may require that copies of the petition and MFRs be placed at other specified locations.

(4)(a) Within 30 days after the official date of filing established by the Commission, the utility shall place a copy of its rate case synopsis at all locations where copies of the petition and MFRs were placed.

(b) Within 30 days after the official date of filing established by the Commission, the utility shall mail a copy of its rate case synopsis to the chief executive officer of the governing body of each municipality and county within the service areas included in the rate request.

(c) The utility's rate case synopsis shall be approved by the Commission staff prior to distribution and shall include the following:

1. A summary of the section of the MFRs showing a comparison of the present and proposed rates and charges;

2. A statement of the general reasons for the rate request;

3. A statement of any anticipated major issues involved in the rate case;

4. A description of the ratemaking process and the time schedule established for the rate case; and

5.The locations where complete MFRs are available.

(5)(a) Within 50 days after the official date of filing established by the Commission, the utility shall provide, in writing, an initial customer notice to all customers within the service areas included in the rate request and to all persons in the same service areas who have filed a written request for service or who have been provided a written estimate for service within the 12 calendar months prior to the month the petition is filed.

(b) The initial customer notice shall be approved by Commission staff prior to distribution and shall include the following:

1.The date the notice was issued;

2. A statement that the utility has filed a rate request with the Commission and a statement of the general reasons for the request;

3. A statement of the locations where copies of the MFRs, petition, and rate case synopsis are available for public inspection and the hours and days when inspection may be made;

4. The time schedule established for the case, including the dates, times, and locations of any hearings scheduled;

5. A comparison of current rates and charges and the proposed new rates and charges;

6. The utility's address, telephone number, and business hours;

7. A statement that written comments regarding utility service or the proposed rates and charges should be addressed to the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, and that such comments should identify the docket number assigned to the proceeding;

8. A statement that complaints regarding service may be made to the Commission's Division of Consumer Affairs at the following toll-free number: 1-800-342-3552; and

9. If the utility has not requested a change in its service availability charges as part of its rate request, a statement that the Commission will be reviewing the utility's service availability charges in the pending rate case and that the Commission may adjust those charges.

10. The docket number assigned by the Commission's Division of Records and Reporting.

(c) The initial customer notice shall be mailed to the out-of-town address of all customers who have provided the utility with an out-of-town address.

(6)(a) No less than 14 days and no more than 30 days prior to the date of each service hearing, in those cases where the Commission has scheduled a service hearing, the utility shall provide written notice of the date, time, location, and purpose of the service hearing to all customers within service areas designated by the prehearing officer or the Commission staff. The notice shall be approved by Commission staff prior to distribution. The notice shall be mailed to the out-of-town address of all customers who have provided the utility with an out-of-town address.

(b) No less than 14 days and no more than 30 days prior to the date of the hearing, in all cases, including those in which the Commission has scheduled a service hearing, the utility shall provide written notice of the date, time, location, and purpose of the hearing to all customers within the service areas included in the rate request. The notice shall be approved by Commission staff prior to distribution. The notice shall be mailed to the out-of-town address of all customers who have provided the utility with an out-of-town address.

(7) No less than 14 days and no more than 30 days prior to the date of each hearing held in or near a utility service area included in the rate request, the utility shall have published in a newspaper of general circulation in the area in which such hearing is to be held a display advertisement stating the date, time, location, and purpose of the hearing. The notice shall be approved by Commission staff prior to publication.

(8) When a utility files for a petition for a general rate increase and requests that its case be processed as proposed agency action in accordance with section 367.081 (8), F.S., the utility shall comply with the requirements of sections (2),(3),(4), and (5) of this rule.

(a) No less than 14 days and no more than 30 days prior to the date of a customer meeting conducted by the Commission staff, the utility shall provide written notice of the date, time, location, and purpose of the customer meeting to all customers within service areas designated by the Commission staff. The notice shall be approved by Commission staff prior to distribution. The notice shall be mailed to the out-of-town address of all customers who have provided the utility with an out-of-town address.

(b) If the proposed agency action order issued in the case is protested and any hearings are subsequently held, the utility shall give notice in accordance with subsections (6) and (7) above.

(9) When a utility applies for a staff-assisted rate case in accordance with section 367.0814, F.S., and Rule 25-30.455, F.A.C., and staff-assistance is granted, the requirements of sections (2),(3),(4), and (5) of this rule shall not apply.

(a) Upon receipt of the staff reports, the utility shall place two copies of its application for staff-assistance and the staff reports at any business offices it has in its service area. Such copies shall be available for public inspection during the utility's regular business hours. If the utility does not have a business office in its service area, the utility shall place two copies of its application and the staff reports at the main county library, the local community center or other appropriate location that is within or most convenient to the service area and that is willing to accept and provide public access to the copies.

(b) No less than 14 days and no more than 30 days prior to the date of a customer meeting conducted by the Commission staff, the utility shall provide, in writing, a customer meeting notice to all customers within its service area and to all persons in the same service areas who have filed a written request for service or who have been provided a written estimate for service within the 12 calendar months prior to the month the petition is filed.

(c) The customer meeting notice shall be approved by Commission staff prior to distribution and shall include the following:

1. The date the notice was issued;

2. The time, date, location, and purpose of the customer meeting;

3. A statement that the utility has applied for a staff-assisted rate case and the general reasons for doing so;

4. A statement of the location where copies of the application and staff reports are available for public inspection and the times during which inspection may be made;

5. A comparison of current rates and charges and the proposed new rates and charges;

6. The utility's address, telephone number, and business hours;

7. A statement that written comments regarding utility service or the proposed rates and charges should be addressed to the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, and that such comments should identify the docket number assigned to the proceeding;

8. A statement that complaints regarding service may be made to the Commission's Division of Consumer Affairs at the following toll-free number: 1-800-342-3552.

9. A statement that the Commission will be reviewing the utility's service availability charges in the pending case and that the Commission may adjust those charges.

10. The docket number assigned by the Commission's Division of Records and Reporting.

(c) The customer meeting notice shall be mailed to the out-of-town address of all customers who have provided the utility with an out-of-town address.

(d) If the proposed agency action order issued in the case is protested and any hearings are subsequently held, the utility shall give notice in accordance with subsections (6) and (7) above.

(10) After the Commission issues an order granting or denying a rate change, the utility shall notify its customers of the order and any revised rates. The customer notification shall be approved by Commission staff and be distributed no later than with the first bill containing any revised rates.

Specific Authority: 350.127(2) and 367.121 (1) (f), F.S.

Law Implemented: 367.081, 367.0814(1), and 367.091, F.S.

History: Transferred from 25-22.0406, F.A.C. and Amended \_\_\_\_\_\_\_.

**25-22.0408 Notice of Requests for New or Revised Service Availability Charges or Policies and Notice of Requests for Allowance for Funds Prudently Invested (AFPI) charges.**

(1) This rule applies to all requests for new or revised service availability charges or policies and to all requests for allowance for funds prudently invested (AFPI) charges made by water and wastewater utilities, including those requests made in conjunction with a request for a general rate increase.

(2) Upon filing an application for new or revised service availability charges or policies or an application for AFPI charges, the utility shall place a copy of the application at its official headquarters and at any business offices it has in the service areas included in the request. Such copies shall be available for public inspection during the utility's regular business hours. If the utility does not have a business office in a service area included in the request, the utility shall place a copy of the application at the main county library, the local community center or other appropriate location which is within or most convenient to the service area and which is willing to accept and provide public access to said copies. The Commission may require that copies of the application be placed at other specified locations.

(3)(a) Upon filing an application for new or revised service availability charges or policies or an application for AFPI charges, the utility shall have published a notice of application in a newspaper of general circulation in the service areas included in the petition.

(b) Upon filing an application for new or revised service availability charges or policies or an application for AFPI charges, the utility shall mail or hand deliver a notice of application to all persons in the service areas included in the application who have filed a written request for service or who have been provided a written estimate for service within the 12 calendar months prior to the month the application is filed.

(c) The Commission may require such other notice as it finds reasonably necessary.

(d) The notice of petition shall include the following:

1. The date the notice was issued;

2. A statement that the utility has filed a petition for new or revised service availability charges or policies or AFPI charges with the Commission;

3. A statement that the requested service availability charge or AFPI charge is to pay for growth in the utility system and the requested charges are to be paid by new, not existing, customers;

4. A statement of the locations where copies of the application are available for public inspection and the times during which inspection may be made;

5. A comparison of the present and proposed policy and charges;

6. The utility's address, telephone number and business hours; and

7. A statement that any comments concerning the policy or charges should be addressed to the Director of Records and Reporting at 101 East Gaines Street, Tallahassee, Florida 32399‑0870.

Specific Authority: 350.127(2) and 367.121 (1) (f), F.S.

Law Implemented: 367.101, 367.111, and 367.091, F.S.

History: Transferred from 25-30.565, F.A.C. and Amended .

**25‑30.020 Fees Required to be Paid by Water and Wastewater ~~Sewer~~ Utilities.**

(1) When a utility files any application for a certificate of authorization ~~certification, extension, transfer~~ pursuant to sections 367.045, 367.071 and 367.171, Florida Statutes, or files any request for a rate change pursuant to sections 367.081, 367.0814 and 367.0822, Florida Statutes~~, rate change,~~ (except an index or pass‑through), or files for authorization to collect or change service availability charges pursuant to section 367.101, Florida Statutes, the utility shall remit a fee. A separate fee shall apply for water service and wastewater service. A separate fee shall also apply for each section listed above. For purposes of this rule, an equivalent residential connection (ERC) is 350 gallons per day (gpd) for water service and 280 gallons per day (gpd) for wastewater service.

(2) The amount of the fee to be filed pursuant to subsection (1) of this rule, shall be ~~based upon the existing or proposed capacity of the system or extension~~ as follows:

(a) For an original certificate application filed pursuant to Section 367.045, Florida statutes, the amount of the fee shall be as follows:

1. For utilities with the existing or proposed capacity to serve up to 500 ERCs, $750;

2. For utilities with the existing or proposed capacity to serve from 501 to 2,000 ERCs, $1,500;

3. For utilities with the existing or proposed capacity to serve from 2,001 to 4,000 ERCs, $2,250;

4. For utilities with the existing or proposed capacity to serve more than 4,000 ERCs, $3,000.

~~(a) For systems or extensions serving from 1 to 999 persons, $150;~~

~~(b) For systems or extensions serving from 1,000 to 4,999 persons, $900;~~

~~(c) For systems or extensions serving from 5,000 to 9,999 persons, $1,500;~~

~~(d) For systems or extensions serving 10,000 or more persons, $2,250.~~

(b) For an application for extension or deletion of territory filed pursuant to Section 367.045, Florida Statutes, the amount of the fee shall be as follows:

1. For applications in which the area to be extended or deleted has the proposed capacity to serve up to 100 ERCs, $100;

2. For applications in which the area to be extended or deleted has the proposed capacity to serve from 101 to 200 ERCs, $200;

3. For applications in which the area to be extended or deleted has the proposed capacity to serve from 201 to 500 ERCs, $500;

4. For applications in which the area to be extended or deleted has the proposed capacity to serve from 501 to 2,000 ERCs, $1,000;

5. For applications in which the area to be extended or deleted has the proposed capacity to serve from 2,001 to 4,000 ERCs, $1,750;

6. For applications in which the area to be extended or deleted has the proposed capacity to serve more than 4,000 ERCs, $2,250.

(c) For an application for transfer or change in majority organizational control filed pursuant to Section 367.071, Florida Statutes, the amount of the fee shall be as follows:

1. For applications in which the utility to be transferred has the capacity to serve up to 500 ERCs, $750;

2. For applications in which the utility to be transferred has the capacity to serve from 501 to 2,000 ERCs, $1500;

3. For applications in which the utility to be transferred has the capacity to serve from 2,001 to 4,000 ERCs, $2,250;

4. For applications in which the utility to be transferred has the capacity to serve more than 4,000 ERCs, $3,000.

(d) For an application for a grandfather certificate filed pursuant to Section 367.171, Florida Statutes, the amount of the fee shall be as follows:

1. For applications in which the utility has the capacity to serve up to 100 ERCs, $100;

2. For applications in which the utility has the capacity to serve from 101 to 200 ERCs, $200;

3. For applications in which the utility has the capacity to serve from 201 to 500 ERCs, $500;

4. For applications in which the utility has the capacity to serve from 501 to 2,000 ERCs, $1,000;

5. For applications in which the utility has the capacity to serve from 2,001 to 4,000 ERCs, $1,750;

6. For applications in which the utility has the capacity to serve more than 4,000 ERCs, $2,250.

(e) For file and suspend rate cases filed pursuant to Section 367.081, Florida Statutes, the amount of the fee shall be as follows:

1. For utilities with the existing capacity to serve up to 500 ERCs, $1,000;

2. For utilities with the existing capacity to serve from 501 to 2,000 ERCs, $2,000;

3. For utilities with the existing capacity to serve from 2,001 to 4,000 ERCs, $3,500;

4. For utilities with the existing capacity to serve more than 4,000 ERCs, $4,500.

(f) For staff-assisted rate cases filed pursuant to Section

367.0814, Florida Statutes, the amount of the fee shall be as follows:

1. For utilities with the existing capacity to serve up to 100 ERCs, $200;

2. For utilities with the existing capacity to serve from 101 to 200 ERCs, $500;

3. For utilities with the existing capacity to serve more than 200 ERCs, $1,000.

(g) For an application for a limited proceeding pursuant to Section 367.0822, Florida Statutes, the amount of the fee shall be as follows:

1. For utilities with the existing capacity to serve up to 100 ERCs, $100;

2. For utilities with the existing capacity to serve from 101 to 200 ERCs, $200;

3. For utilities with the existing capacity to serve from 201 to 500 ERCs, $500;

4. For utilities with the existing capacity to serve from 501 to 2,000 ERCs, $1,000;

5. For utilities with the existing capacity to serve from 2,001 to 4,000 ERCs, $1,750;

6. For utilities with the existing capacity to serve more than 4,000 ERCs, $2,250.

(h) For an application for approval of charges or conditions for service availability filed pursuant to section 367.101, Florida Statutes, the amount of the fee shall be as follows:

1. For utilities with the existing capacity to serve up to 100 ERCs, $100;

2. For utilities with the existing capacity to serve from 101 to 200 ERCs, $200;

3. For utilities with the existing capacity to serve from 201 to 500 ERCs, $500;

4. For utilities with the existing capacity to serve from 501 to 2,000 ERCs, $1,000;

5. For utilities with the existing capacity to serve from 2,001 to 4,000 ERCs, $1,750;

6. For utilities with the existing capacity to serve more than 4,000 ERCs, $2,250.

(i) For utilities filing pursuant to Rule 25-30.435, F.A.C., "Application for a Rate Increase by an Applicant that Owns Multiple Systems", or 25-30.565, "Application for Approval of New or Revised Service Availability Policy or Charges", the fees in paragraphs (2)(e), (g), and (h) above, shall be determined by combining the capacity of all systems included in the application.

Specific Authority: 350.127(2) and 367.121(1), F.S. ~~367.141, F.S. as amended by Chapter 80‑99, Laws of Florida.~~

Law Implemented: 367.045(1)(d) and (2)(e), 367.071(3), 367.081(5), 367.0822(2), 367.101(2), 367.145 and 367.171(2)(b), F.S. ~~367.141, F.S. as amended by Chapter 80‑99, Laws of Florida.~~

History: New 10/29/80, formerly 25‑10.11, Transferred from 25‑10.011 and Amended 11/9/86, Amended .

**25-30.025 Official Date of Filing.**

(1) The "official date of filing" is the date on which a utility has filed completed sets of the minimum filing requirements (MFRs) for any application that has been accepted by the Director of the Division of Water and Wastewater as being complete and paid the appropriate filing fee to the Director of Records and Reporting.

(2) The Director of the Division of Water and ~~Sewer~~ Wastewater shall determine the official date of filing for any utility's application and~~, advise the Commission who will~~ advise the applicant. The Commission shall resolve ~~and~~ any dispute regarding the official date of filing.

Specific Authority: 367.121(1), F.S.

Law Implemented: 367.083, F.S.

History: New 3/26/81, formerly 25-10.12, Transferred from 25-10.012 ~~and~~ Amended 11/9/86, Amended .

**25‑30.030 Notice of Application.**

(1) When a utility applies for a certificate of authorization, an extension or deletion of its service area, or a sale, assignment or transfer of its certificate of authorization, facilities or any portion thereof or majority organizational control, it shall provide notice of its application in the manner and to the entities described in this section.

(2) Before providing notice in accordance with this section, a utility shall obtain from the Commission a list of the names and addresses of the municipalities~~,~~ and privately-owned water ~~utilities,~~ and wastewater utilities ~~within a four‑mile radius~~ that hold a certificate granted by the Public Service Commission and that are located within the county in which the utility or the territory proposed to be served is located. In addition, if any portion of the proposed territory is within one mile of a county boundary, the utility shall obtain from the Commission a list of the names and addresses of the privately-owned utilities located in the bordering counties and holding a certificate granted by the Commission. ~~The utility's request for the list shall include a description, in township, range and land sections, of the territory in the application.~~

(3) The notice shall be appropriately styled:

(a) Notice of Application for an Initial Certificate of Authorization for Water, Wastewater, or Water and Wastewater Certificate;

(b) Notice of Application for an Extension of Service Area;

(c) Notice of Application for Deletion of Service Area;

(d) Notice of Application for a Transfer of Water, Wastewater, or Water and Wastewater Certificate(s); or

(e) Notice of Application for a Transfer of Majority Organizational Control.

(4) The n~~N~~otice shall include the following:

(a) the date the notice is given;

(b)~~(a)~~ the name and address of the applicant;

(c)~~(b)~~ a description, using township, range and section references, of the territory proposed to be either served, added, deleted, or transferred; and

(d)~~(c)~~ a statement that any objections to the a~~A~~pplication must be filed with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399‑0870, no later than 30 days after the last date that the n~~N~~otice was mailed or published, whichever is later.

(5) Within 7 ~~seven~~ days of filing its application, the utility shall provide a copy of the n~~N~~otice~~,~~ by ~~certified~~ regular mail ~~or personal service,~~ to:

(a) the governing body of the county in which the utility system or the territory proposed to be served is located;

(b) the governing body of any municipality ~~within a four‑mile radius of the utility system or the territory proposed to be served~~ contained on the list obtained pursuant to (2) above;

(c) the regional planning ~~agency~~ council designated by the Clean Water Act, 33 U.S.C. 1288(2);

(d) ~~any~~ all water or wastewater ~~utility within a four‑mile radius of the territory proposed to be served, added, deleted, or transferred~~ utilities contained on the list(s) obtained pursuant to (2) above;

(e) the office of Public Counsel; ~~and~~

(f) the Commission's Director of Records and Reporting~~.~~;

(g) the appropriate regional office of the Department of Environmental Regulation; and

(h) the appropriate Water Management District.

(6) No sooner than 21 ~~twenty-one~~ days before the application is filed and no later than 7 ~~seven~~ days after the application is filed, the utility shall also provide a copy of the Notice, by regular mail or personal service, to each customer, ~~if any,~~ of the system to be certificated, transferred, acquired, or deleted.

(7) The Notice shall be published once ~~each week, for three consecutive weeks,~~ in a newspaper of general circulation in the territory proposed to be served, added, deleted, or transferred. The ~~first~~ publication shall be within 7 days of filing the application ~~no sooner than 21 days before the date the application is filed, and no later than seven days after the date the application is filed~~.

(8) A copy of the notice(s) and list of the entities receiving notice pursuant to this rule shall accompany the affidavit required by sections 367.045(1) (e) and (2) (f), Florida Statutes. The affidavit shall be filed no later than 15 days after filing the application.

~~(8)~~(9) This rule does not apply to applications for grandfather certificates filed under section 367.171, Florida Statutes, or to applications for transfers to governmental authorities filed under Section 367.071, Florida Statutes, or to name changes.

Specific Authority: 367.121(1), F.S.

Law Implemented: 367.031, 367.045, 367.071, F.S.

History: New 4/5/81, formerly 25‑10.061, Transferred from 25‑10.0061 and Amended 11/9/86, Amended 1/27/91, Amended .

**25-30.032 Applications.**

(1) Each utility subject to regulation by the Commission shall apply for an initial certificate of authorization, amendment to an existing certificate of authorization, ~~or~~ transfer, or name change by filing a completed application and ~~fifteen~~ 12 copies, in accordance with either 25-30.033, 25-30.034, 25-30.035, 25-30.036, ~~or~~ 25-30.037(1) or (2), 25-30.038, or 25-30.039, F.A.C. However, a utility shall apply for a transfer to a governmental authority by filing a completed application and two copies, in accordance with Rule 25‑30.037 (3) and (4), F.A.C. The application shall be filed with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399‑0870. Sample application forms may be obtained from the Division of Water and Wastewater, Bureau of Certification, 101 East Gaines Street, Tallahassee, Florida 32399‑0850~~0873~~.

(2) A utility may file combined applications if it is applying for certificates of authorization or any amendments thereto for both water and wastewater systems; however, the utility shall remit a separate application fee for each ~~system~~ service. The Commission will treat a combined application as if a separate application had been filed for each ~~system~~ service.

(3) The official filing date of an application for an original certificate, any amendment to an existing certificate,or any transfer shall be the date a completed application is filed with the Division of Records and Reporting, except that the noticing requirements set forth in Rule 25‑30.030, F.A.C., do not need to be completed at that time. If, however, the utility has not completed the noticing within ~~22 days of filing the application,~~ the time limits prescribed by Rule 25-30.030, F.A.C., the official filing date shall be the date the noticing is complete. ~~The affidavit that the applicant has provided notice of its actual application required by Section 367.045, Florida Statutes, shall be filed within 35 days after filing the application.~~

Specific Authority: 367.121, F.S.

Law Implemented: 367.031, 367.045, 367.071, F.S.

History: New 1/27/91, Amended .

**25‑30.033 Application for Original Certificate of Authorization and Initial Rates and Charges.**

(1) Each application for an original certificate of authorization and initial rates and charges shall provide the following information:

(a) the applicant's name and address;

(b) the nature of the applicant's business organization, i.e., corporation, partnership, limited partnership, sole proprietorship, association, etc.;

(c) the name(s) and address(es) of all corporate officers, directors, partners, or any other person(s) owning an interest in the applicant's business organization;

(d) whether the applicant has made an election under Internal Revenue Code 1362 to be an S corporation;

(e) a statement showing the financial and technical ability of the applicant to provide service, and the need for service in the proposed area. The statement shall identify any other utilities within a 4‑mile radius that could potentially provide service, and the steps the applicant took to ascertain whether such other service is available;

(f) A statement that to the best of the applicant's knowledge, the provision of service will be consistent with the water and wastewater sections of the local comprehensive plan~~,~~ as approved by the Department of Community Affairs at the time the application is filed, or, if not consistent, a statement demonstrating why granting the certificate of authorization would be in the public interest.

(g) the date applicant plans to begin serving customers;

(h) the number of equivalent residential connections (ERCs) proposed to be served, by meter size and customer class. If development will be in phases, separate this information by phase;

(i) a description of the types of customers anticipated, i.e., single family homes, mobile homes, duplexes, golf course clubhouse, commercial, etc.;

(j) evidence, in the form of a warranty deed, that the utility owns the land upon which the utility treatment facilities are or will be located, or a copy of an agreement which provides for the continued use of the land, such as a 99‑year lease. The applicant may submit a contract for the purchase and sale of land with an unexecuted copy of the warranty deed, provided the applicant files an executed and recorded copy of the deed, or executed copy of the lease, within 30 ~~thirty~~ days after the order granting the certificate;

(k) one original and two copies of a sample tariff, containing all rates, classifications, charges, rules, and regulations, which shall be consistent with Chapter 25‑9, Florida Administrative Code. Model tariffs are available from the Division of Water and Wastewater, 101 East Gaines Street, Tallahassee, Florida 32399‑0850~~0870~~;

(l) a description of the territory to be served, using township, range and section references;

(m) one copy of a detailed system map showing the proposed lines, treatment facilities and the territory proposed to be served. The map shall be of sufficient scale and detail to enable correlation with the description of the territory proposed to be served;

(n) one copy of the official county tax assessment map, or other map showing township, range, and section with a scale such as 1"=200' or 1"=400', with the proposed territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning.

(o) a statement regarding the separate capacities of the proposed lines and treatment facilities in terms of ERCs and gallons per day. If development will be in phases, separate this information by phase;

(p) a written description of the type of water treatment, wastewater treatment, and method of effluent disposal;

(q) if (p) above does not include effluent disposal by means of reuse ~~spray irrigation~~, a statement that describes with particularity the reasons for not using reuse ~~spray irrigation~~;

(r) a detailed statement (balance sheet), certified if available, of the financial condition of the applicant, that shows all assets and liabilities of every kind and character. The statement shall be prepared in accordance with Rule 25‑30.115, Florida Administrative Code;

(s) a statement of profit and loss (operating statement), certified if available, of the applicant for the preceding calendar or fiscal year. If an applicant has not operated for a full year, then for the lesser period;

(t) a list of all entities which have provided, or will provide funding to the utility, and an explanation of the manner and amount of such funding, which shall include their financial statements and ~~or~~ copies of any financial agreements with the utility. This requirement shall not apply to any person or entity holding less than 10 percent ownership interest in the utility, unless that person or entity is also providing other funding (other than funding to secure an ownership interest) to the utility;

(u) a cost study including customer growth projections supporting the proposed rates, charges and service availability charges. A sample cost study, and assistance in preparing initial rates and charges, are available from the Division of Water and Wastewater;

(v) a schedule showing the projected cost of the proposed system(s) by uniform system of accounts (USOA) ~~NARUC~~ account numbers pursuant to Rule 25-30.115, F.A.C. and the related capacity of each system in ERCs and gallons per day. If the utility will be built in phases, this shall apply to the first phase;

(w) a schedule showing the projected operating expenses of the proposed system by USOA ~~NARUC~~ account numbers, when 80 percent of the designed capacity of the system is being utilized. If the utility will be built in phases, this shall apply to the first phase; and

(x) a schedule showing the projected capital structure including the methods of financing the construction and operation of the utility until the utility reaches 80 percent ~~%~~ of the design capacity of the system.

(2) The base facility and usage rate structure (as defined in Rule 25-30.437(7), F.A.C.) shall be utilized for metered service, unless an alternative rate structure is supported by the record of the proceeding ~~applicant~~ and authorized by the Commission.

(3) A return on common equity shall be established using the current equity leverage formula established by order of this Commission pursuant to section 367.081(4), F.S., unless there is competent substantial evidence supporting the use of a different return on common equity.

(4) Utilities obtaining initial certificates pursuant to this rule are authorized to accrue allowance for funds used during construction (AFUDC) for projects found eligible pursuant to Rule 25-30.116(1), F.A.C.

(a) The applicable AFUDC rate shall be determined as the utility's projected weighted cost of capital as demonstrated in its application for original certificate and initial rates and charges.

(b) A discounted monthly AFUDC rate calculated in accordance with Rule 25-30.116(3), F.A.C., shall be used to insure that the annual AFUDC charged does not exceed authorized levels.

(c) The date the utility shall begin to charge the AFUDC rate shall be the date the certificate of authorization is issued to the utility so that such rate can apply to the initial construction of the utility facilities.

Specific Authority: 367.121, F.S.

Law Implemented: 367.031, 367.045(1), F.S.

History: New 1/27/91, Amended .

**25-30.034 Application for Certificate of Authorization for Existing Utility Currently Charging for Service.**

(1) Each existing utility currently charging for service, which is applying for an initial certificate of authorization, other than under section 367.171, Florida Statutes, shall provide the following information:

(a) the utility's complete name and address;

(b) the nature of the utility's business organization, i.e., corporation, partnership, limited partnership, sole proprietorship, association, etc.;

(c) the name(s) and address(es) of all corporate officers, directors, partners, or any other person(s) owning an interest in the utility;

(d) a statement regarding the financial and technical ability of the applicant to continue to provide service;

(e) evidence that the utility owns the land upon which the utility treatment facilities are located, or a copy of an agreement which provides for the continued use of the land, such as a 99‑year lease;

(f) one original and two copies of a model ~~sample~~ tariff, containing all rates, classifications, charges, rules, and regulations, which shall be consistent with Chapter 25‑9, Florida Administrative Code. Model ~~Sample~~ tariffs are available from the Division of Water and Wastewater, 101 East Gaines Street, Tallahassee, Florida 32399‑0850~~0870~~;

(g) a statement specifying on what date and under what authority the current rates and charges were established;

(h) a description of the territory to be served, using township, range and section references;

(i) one copy of a detailed system map showing the lines, treatment facilities and the territory to be served. Any territory not served at the time of the application shall be specifically identified on the system map. The map shall be of sufficient scale and detail to enable correlation with the description of the territory to be served;

(j) one copy of the official county tax assessment map, or other map showing township, range, and section with a scale such as 1"=200' or 1"=400', with the proposed territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning.

(k) the numbers and dates of any permits issued for the systems by the Department of Environmental Regulation;

(l) the date the utility was established; ~~and~~

(m) a statement explaining how and why applicant began providing service prior to obtaining a certificate of authorization~~.~~; and

(n) a schedule showing the number of customers currently served, by class and meter size, as well as the number of customers projected to be served when the requested service territory is fully occupied.

(2) If the applicant is requesting any territory not served at the time of application, provide the following:

(a) a statement showing the need for service in the proposed area; and

(b) a statement that to the best of the applicant's knowledge, the provision of service in this territory will be consistent with the water and wastewater sections of the local comprehensive plan as approved by the Department of Community Affairs at the time the application is filed, or, if not consistent, a statement demonstrating why granting the territory would be in the public interest.

Specific Authority: 367.121, F.S.

Law Implemented: 367.045, F.S.

History: New 1/27/91, Amended .

**25‑30.035 Application for Grandfather Certificate.**

Each applicant for a certificate of authorization under the provisions of section 367.171, Florida Statutes, shall provide the following information.

(1) the utility's complete name and address;

(2) the nature of the utility's business organization, i.e., corporation, partnership, limited partnership, sole proprietorship, association, etc.;

(3) the name(s) and address(es) of all corporate officers, directors, partners, or any other person(s) owning an interest in the utility;

(4) the date the utility was established;

(5) a description of the types of customers served, i.e., single family homes, mobile homes, duplexes, golf course clubhouse, commercial, etc.;

(6) evidence that the utility owns the land upon which the utility treatment facilities are located, or a copy of an agreement which provides for the continued use of the land, such as a 99‑year lease;

(7) one original and two copies of a sample tariff, containing all rates, classifications, charges, rules, and regulations, which shall be consistent with Chapter 25‑9, Florida Administrative Code. Sample tariffs are available from the Division of Water and Wastewater, 101 East Gaines Street, Tallahassee, Florida 32399‑0850~~0870~~.

(8) a statement specifying on what date and under what authority the current rates and charges were established;

(9) a description, using township, range, and section references, of the territory the utility was serving, or was authorized to serve by the county which had jurisdiction over the utility on the day Chapter 367, Florida Statutes, became applicable to the utility;

(10) one copy of a detailed system map showing the lines, treatment facilities and the territory to be served. Any territory not served at the time of the application shall be specifically identified, and the map shall be of sufficient scale and detail to enable correlation with the description of the territory to be served;

(11) one copy of the official county tax assessment map, or other map showing township, range, and section, with a scale such as 1"=200' or 1"=400', with the proposed territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning; ~~and~~

(12) the numbers and dates of any permits issued for the systems by the Department of Environmental Regulation~~.~~; and

(13) a schedule showing the number of customers currently served, by class and meter size, as well as the number of customers projected to be served when the requested service territory is fully occupied.

Specific Authority: 367.121, F.S.

Law Implemented: 367.171, F.S.

History: Amended 7/21/65, 1/7/69, 2/3/70, 3/6/71, 9/12/74, 3/26/81, formerly 25-10.02, Transferred from 25-10.002 and Amended 11/9/86, Amended 1/27/91, Amended .

**25‑30.036 Application for Amendment to Certificate of Authorization to Extend or Delete Service.**

(1) This section applies to any certificated water or wastewater utility that proposes to extend its service territory into an area in which there is no existing water or wastewater system. A request for service territory expansion and amendment of an existing certificate or issuance of a new certificate shall be considered approved under the following conditions if no protest is timely filed to the notice of application:

(a) the proposed new territory includes a maximum of 25 equivalent residential connections within such territory; and

(b) the utility has provided the written statement of an officer of the utility that, upon investigation, to the best of his or her knowledge:

1. there is no other utility within a 4-mile radius of the proposed territory that is willing and capable of providing reasonably adequate service to the new territory; and

2. the person(s) or business(es) requesting water or wastewater service have demonstrated to the utility that service is necessary because (1) a private well has been contaminated or gone dry, (2) a septic tank has failed; or (3) service is otherwise not available.

(2) Each utility proposing to extend its service area (except applications filed pursuant to section (1) above, which shall file only (a), (d), (e), (i), (o), (p), (q), and (r) listed below) shall provide the following:

(a) the utility's complete name and address;

(b) a statement showing the financial and technical ability of the utility to provide service and the need for service in the area requested. ~~The statement shall identify any other utilities within a 4‑mile radius that could potentially provide such service~~;

(c) a statement that to the best of the applicant's knowledge the provision of service will be consistent with the water and wastewater sections of the local comprehensive plan at the time the application is filed, as approved by the Department of Community Affairs, or, if not, a statement demonstrating why granting the amendment would be in the public interest.

(d) evidence that the utility owns the land upon which the utility treatment facilities that will serve the proposed territory are located or a copy of an agreement, such as a 99‑year lease, which provides for the continued use of the land;

(e) a description of the territory proposed to be served, using township, range and section references;

(f) one copy of a detailed system map showing the proposed lines, treatment facilities, and the territory proposed to be served. The map shall be of sufficient scale and detail to enable correlation with the description of the territory;

(g) if the utility is planning to build a new wastewater treatment plant, or upgrade an existing plant to serve the proposed territory, provide a written description of the proposed method(s) of effluent disposal;

(h) if (g) above does not include effluent disposal by means of reuse ~~spray irrigation~~, a statement that describes with particularity the reasons for not using reuse ~~spray irrigation~~.

(i) one copy of the official county tax assessment map or other map showing township, range, and section, with a scale such as 1"=200' or 1"=400', with the proposed territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning.

(j) a statement describing the capacity of the existing lines, the capacity of the treatment facilities, and the design capacity of the proposed extension;

(k) the numbers and dates of any permits issued for the proposed systems by the Department of Environmental Regulation;

(l) a detailed statement regarding the proposed method of financing the construction, and the projected impact on the utility's capital structure;

(m) a description of the types of customers anticipated to be served by the extension, i.e., single family homes, mobile homes, duplexes, golf course clubhouse, commercial, etc.;

(n) a statement regarding the projected impact of the extension on the utility's monthly rates and service availability charges;

(o) the original and two copies of sample tariff sheets reflecting the additional service area; and

(p) the applicant's current certificate for possible amendment.

(q) the number of the most recent order of the Commission establishing or changing the applicant's rates and charges.

(r) an affidavit that the utility has tariffs and annual reports on file with the Commission.

(3)~~(2)~~ Each utility proposing to delete a portion of its service area shall submit the following:

(a) the utility's complete name and address;

(b) a description of the territory proposed to be deleted, using township, range and section references;

(c) one copy of a detailed system map showing the existing lines, treatment facilities, and territory served. The map shall be of sufficient scale and detail to enable correlation with the legal description of the territory;

(d) the number of current active connections within the territory to be deleted;

(e) one copy of the official county tax assessment map, or other map, showing township, range, and section with a scale such as 1"=200' or 1"=400', with the territory proposed to be deleted plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning.

(f) a statement specifying the reasons for the proposed deletion of territory;

(g) a statement indicating why the proposed deletion of territory is in the public interest;

(h) a statement as to the effect of the proposed deletion on the ability of any customer or potential customer to receive water and wastewater service, including alternative source(s) of service;

(i) the original and two copies of sample tariff sheets reflecting the revised service area; and

(j) the applicant's current certificate for possible amendment.

(k) the number of the most recent order of the Commission establishing or changing the applicant's rates and charges.

(l) an affidavit that the utility has tariffs and annual reports on file with the Commission.

Specific Authority: 367.121, F.S.

Law Implemented: 367.045, F.S.

History: New 1/27/91, Amended .

**25-30.037 Application for Authority to Transfer.**

(1) This rule applies to any application for the transfer of an existing water or wastewater system, regardless of whether service is currently being provided. This rule does not apply where the transfer is of an exempt or non-jurisdictional system and will result in the system continuing to be exempt from or not subject to Commission jurisdiction. The application for transfer may result in the transfer of the seller's existing certificate, amendment of the buyer's certificate or granting an initial certificate to the buyer.

(2)~~(1)~~ Each application for transfer of certificate of authorization, facilities or any portion thereof, to a non‑governmental entity shall include the following information:

(a) the complete name and address of the seller ~~transferor~~;

(b) the complete name and address of the buyer ~~transferee~~;

(c) the nature of the buyer's ~~transferee's~~ business organization, i.e., corporation, partnership, limited partnership, sole proprietorship, or association;

(d) the name(s) and address(es) of all of the buyer's ~~transferee's~~ corporate officers, directors, partners or any other person(s) who will own an interest in the utility;

(e) the date and state of incorporation or organization of the buyer ~~transferee~~;

(f) the names and locations of any other water or wastewater ~~or water and wastewater~~ utilities owned by the buyer ~~transferee~~;

(g) a copy of the contract for sale, which shall include:

1. purchase price and terms of payment, and

2. a list of the assets purchased and liabilities assumed or not assumed;

(h) the contract for sale shall also provide for the disposition, where applicable, of the following:

1.customer deposits and interest thereon;

2.any guaranteed revenue contracts;

3.developer agreements;

4.customer advances;

5.debt of the utility;

6.leases;

(i) a statement describing the financing of the purchase;

(j) a statement indicating how the transfer is in the public interest, including a summary of the buyer's ~~transferee's~~ experience in water or wastewater utility operations, a showing of the buyer's ~~transferee's~~ financial ability to provide service, and a statement that the buyer ~~transferee~~ will fulfill the commitments, obligations and representations of the seller ~~transferor~~ with regard to utility matters;

(k) a list of all entities which have provided, or will provide, funding to the buyer ~~transferee~~, and an explanation of the manner and amount of such funding, which shall include their financial statements and copies of any financial agreements with the utility. This requirement shall not apply to any person or entity holding less than 10 percent ownership interest in the utility, unless that person or entity is also providing other funding (other than funding to secure an ownership interest) to the utility;

(l) the proposed net book value of the system as of the date of the proposed transfer. The net book value shall be calculated in accordance with Rule 25-30.0371, F.A.C. If rate base has been established by this Commission, state ~~indicate~~ the order number and date issued and identify all adjustments made to update this rate base to the date of transfer;

(m) a statement setting out the reasons for the inclusion of an acquisition adjustment, if one is requested;

(n) if the books and records of the seller ~~transferor~~ are not available for inspection by the Commission or are not adequate for purposes of establishing the net book value of the system, a statement by the buyer ~~transferee~~ that a good faith, extensive effort has been made to obtain such books and records for inspection by the Commission and detailing the steps taken to obtain the books and records;

(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 rate base was last established by the Commission or, if the tax returns have not been obtained, a statement from the buyer detailing the steps taken to obtain the returns;

(p) a statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by the Department of Environmental Regulation (DER) or, if the system is in need of repair or improvement, has any outstanding Notice of Violation of any standard set by the DER or any outstanding consent orders with the DER, the buyer shall provide a list of the improvements and repairs needed and the approximate cost to make them, a list of the action taken by the utility with regard to the violation, a copy of the Notice of Violation(s), a copy of the consent order and a list of the improvements and repairs consented to and the approximate cost to make them;

(q)~~(o)~~ evidence that the utility owns the land upon which the utility treatment facilities are located, or a copy of an agreement which provides for the continued use of the land, such as a 99‑year lease;

(r)~~(p)~~ a statement regarding the disposition of any outstanding regulatory assessment fees, fines, or refunds owed;

(s)~~(q)~~ the original and two copies of sample tariff sheets reflecting the change in ownership; and

(t)~~(r)~~ the utility's current certificate(s), or if not available, provide an explanation of the steps the applicant took to obtain the certificate(s).

(3)~~(2)~~ In case of a change in majority organizational control, the application shall include the following information:

(a) the complete name and address of the seller ~~the information required under paragraphs (a), (b), (d), (f), (i), (j), (k), (o), and (q) of subsection (1)~~;

(b) the complete name and address of the buyer ~~a copy of the purchase agreement~~;

(c) the name(s) and address(es) of all of the buyer's corporate officers, directors, partners and any other person(s) who will own an interest in the utility; ~~a statement from the transferee that it has obtained or will obtain all the books and records of the utility; and~~

(d) the names and locations of any other water or wastewater utilities owned by the buyer ~~if the books and records of the transferor are not available, a statement by the transferee that a good faith, extensive effort has been made to obtain such books and records~~;

(e) a statement describing the financing of the purchase;

(f) a statement describing how the transfer is in the public interest, including a summary of the buyer's experience in water or wastewater utility operations, a showing of the buyer's financial ability to provide service, and a statement that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters;

(g) a list of all entities that have provided, or will provide, funding to the buyer, and an explanation of the manner and amount of such funding, which shall include their financial statements and copies of any financial agreements with the utility. This requirement shall not apply to any person or entity holding less than 10 percent ownership interest in the utility, unless that person or entity is also providing other funding (other than funding to secure an ownership interest) to the utility;

(h) a statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by the DER or, if the system is in need of repair or improvement, has any outstanding Notice of Violation(s) of any standard(s) set by the DER or any outstanding consent orders with the DER, the buyer shall provide a list of the improvements and repairs needed and the approximate cost to make them, a list of the action taken by the utility with regard to the violations, a copy of the Notice of Violation(s), a copy of the consent order and a list of the improvements and repairs consented to and the approximate cost;

(i) evidence that the utility owns the land upon which the utility treatment facilities are located, or a copy of an agreement which provides for the continued use of the land, such as a 99‑year lease;

(j) the original and two copies of sample tariff sheets reflecting the change in ownership; and

(k) the utility's current certificate(s), or if not available, the applicant shall provide an explanation of the steps the applicant took to obtain the certificate(s).

~~(a) the information required under paragraphs (a), (b), (d), (f), (i), (j), (k), (o), and (q) of subsection (1);~~

(4)~~(3)~~ Each application for transfer of certificate of authorization, facilities, or any portion thereof, or majority organizational control to a governmental authority shall contain the following information:

(a) the name and address of the utility and its authorized representative;

(b) the name of the governmental authority and the name and address of its authorized representative;

(c) a copy of the contract or other document transferring the utility system to the governmental authority;

(d) a list of any utility assets not transferred to the governmental authority if such remaining assets constitute a system providing or proposing to provide water or wastewater service to the public for compensation;

(e)~~(c)~~ a statement that the governmental authority obtained, from the utility or Commission, the most recent available income and expense statement, balance sheet, statement of rate base for regulatory purposes, and contributions‑in‑aid‑of‑construction;

(f)~~(d)~~ the date on which the governmental authority proposes to take official action to acquire the utility;

(g)~~(e)~~ a statement describing the disposition of customer deposits and interest thereon; and

(h)~~(f)~~ a statement regarding the disposition of any outstanding regulatory assessment fees, fines or refunds owed.

(5)~~(4)~~ If a utility is transferring a portion of its facilities to a governmental agency, it must provide the following additional information:

(a) a description of the remaining territory using township, range, and section references;

(b) one copy of the official county tax assessment map, or other map, showing township, range, and section with a scale such as 1"=200' or 1"=400', with the remaining territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning.

(c) the original and two copies of sample tariff sheets reflecting the remaining territory.

(6)~~(5)~~ Upon its receipt of items required in ~~(3)~~(4)(a), (b), (c), ~~and~~ (d), (e) and (f), the Commission will issue an order acknowledging that the facilities or any portion thereof have been acquired by the governmental authority.

(7)~~(6)~~ Upon receipt of the items required in ~~(3)~~(4)~~(e)~~(g) and ~~(f)~~(h) and, if applicable, ~~(4)~~(5)(a), (b), and (c), ~~upon payment of all regulatory assessment fees due and owing,~~ and upon the completion of all pending proceedings before the Commission, the ~~Commission will issue an order amending or cancelling the~~ utility's certificate will be amended or cancelled. Amendment or cancellation of the certificate shall not affect the utility's obligation pursuant to Rule 25-30.120, F.A.C., Regulatory Assessment Fees.

Specific Authority: 367.121, F.S.

Law Implemented: 367.071 F.S.

History: New 1/27/91, Amended .

**25-30.0371 Rate Base Established at Time of Transfer.** This rule applies to any utility purchased by a utility regulated by this Commission, except where the purchased utility is located in a nonjurisdictional county and is not otherwise subject to the Commission's jurisdiction under section 367.171(7), F.S..

(1) For the purposes of this rule and Rule 25-30.037 and 25-30.038, rate base is defined as the net book value of the utility assets involved. Net book value is calculated as Utility Plant In Service less Accumulated Depreciation plus Construction Work in Progress less Contributions In Aid of Construction less Advances for Construction plus Accumulated Amortization of Contributions In Aid of Construction. The Commission shall also consider the condition of the utility assets purchased in deciding if a purchased asset should be removed from the rate base calculation.

(2) In the absence of extraordinary circumstances, the purchase of a utility system at a premium or at a discount shall not affect the rate base calculation.

(3) If requested by the acquiring utility, rate base including any acquisition adjustment, will be determined in the order approving the transfer.

(4) Where the buyer demonstrates that it has engaged in a good faith effort to obtain original cost documentation, and has been unable to obtain such documents, the Commission may establish rate base based upon competent substantial evidence reconstructing and estimating the original cost of plant in service and the amount of contributions-in-aid-of-construction.

Specific Authority: 367.121, F.S.

Law Implemented: 367.071(5), F.S.

History: New.

**25-30.038 Expedited Application for Acquisition of Existing Small System.**

(1) This rule is an alternative to Rule 25-30.037, Florida Administrative Code, and applies to any existing Class A or B water or wastewater utility which has a current annual report on file with the Commission and is requesting approval to acquire an existing small system and either institute initial rates and charges or change the existing rates and charges of the small system. For purposes of this rule, an existing small system is one whose total gross annual operating revenues are $150,000 or less for water service or $150,000 or less for wastewater service, or $300,000 or less on a combined basis.

(2) When a utility makes application pursuant to this rule, it shall file an application consistent with Rule 25-30.032, F.A.C., and a limited proceeding to institute or change rates and charges. A separate filing fee calculated in accordance with Rule 25-30.020, F.A.C., is required for the application for acquisition of existing small system and for the limited proceeding.

(3) When a utility makes application pursuant to this rule, it shall provide notice of its application in the manner and to the entities described in Rule 25-30.030, F.A.C., except that:

(a) The notice shall be appropriately styled: Notice of Application for Acquisition of Existing Small System and a Limited Proceeding to Institute (or Change) Rates and Charges; and

(b) The notice shall include the following:

1.the name and address of the applicant;

2. a description, using township, range and section references, of the territory proposed to be acquired;

3. a listing of the proposed rates and charges;

4. a statement consistent with subsection (10) of this rule that any rate change that is approved by the Commission shall be on a temporary basis, subject to refund, if applicable, and including interest; and

5. a statement that any objections to the application must be filed with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, no later than 30 days after the last date that the notice was mailed or published, whichever is later.

(4) An application pursuant to this rule shall contain the following:

(a) The complete name and address of the buyer;

(b) The complete name and address of the seller;

(c) a copy of the contract for sale, which shall include:

1. the purchase price and terms of payment, and

2. a list of the assets purchased and liabilities assumed and not assumed.

(d) the contract for sale shall also provide for the disposition, where applicable, of the following:

1.customer deposits and interest thereon;

2.any guaranteed revenue contracts;

3.developer agreements;

4.customer advances;

5.debt of the utility; and

6.leases.

(e) a statement describing the financing of the purchase;

(f) a statement indicating how the purchase is in the public interest, including a summary of the buyer's experience in water or wastewater utility operations, a showing of the buyer's financial ability to provide service, and a statement that the buyer will fulfill the commitments, obligations and representations of the seller with regard to utility matters;

(g) one copy of the official county tax assessment map, or other map showing township, range, and section with a scale such as 1"=200' or 1"=400', with the proposed territory plotted thereon by use of metes and bounds or quarter sections, and with a defined reference point of beginning;

(h) one copy of a detailed system map, if reasonably available, showing the lines, treatment facilities and the territory served. Any territory not served at the time of application shall be specifically identified and the map shall be of sufficient scale and detail to enable correlation with the description of the territory served;

(i) the permit numbers and dates of any permits issued for the water and wastewater systems by the Department of Environmental Regulation;

(j) a statement from a professional engineer providing the capacity of the water system, wastewater system, or both, and the basis for determination, if different from the rated capacity determined by the Department of Environmental Regulation (DER);

(k) a statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and in compliance with all applicable standards set by the DER or, if the system is in need of repair or improvement, has any outstanding Notice of Violation(s) of any standard(s) set by the DER or any outstanding consent orders with the DER, the buyer shall provide a list of the improvements and repairs needed and the approximate cost to make them, a list of the action taken by the utility with regard to the violations, a copy of the Notice of Violation(s), a copy of the consent order and a list of the improvements and repairs consented to and the approximate cost to make them;

(l) a statement from the buyer that it has obtained or will obtain the original or a copy of the books and records of the seller and that such books and records are adequate for purposes of establishing the net book value of the system or, if the books and records of the seller are not available or adequate for purposes of establishing the net book value of the system, a statement from the buyer detailing the steps taken to obtain the books and records;

(m) 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 rate base was last established by the Commission or, if the tax returns have not been obtained, a statement from the buyer detailing the steps taken to obtain the returns;

(n) evidence that the small system to be acquired owns the land upon which the utility treatment facilities are located, or a copy of an agreement that provides for the continued use of the land, such as a 99-year lease;

(o) a statement regarding the disposition of any outstanding regulatory assessment fees, fines, or refunds owed;

(p) the original and two copies of sample tariff sheets reflecting the inclusion of the system into the buyer's existing tariff;

(q) the buyer's and seller's current certificate(s), if applicable or, if the certificate(s) are not available, an explanation of the steps the applicant took to obtain the certificate(s);

(r) if the buyer has existing Commission-approved rates and charges in the county in which the system being acquired is located, a complete schedule of the rates and charges and a reference to the number of the most recent order of the Commission establishing or amending the buyer's rates and charges; and

(s) a schedule of calculation of proposed service availability charges if the buyer does not have Commission-approved service availability charges applicable in the county in which the system being acquired is located.

(5) If the small system being purchased is not currently certificated by the Commission, the application shall contain the following in addition to the requirements of subsection (4) of this rule:

(a) a description of the territory served, using township, range and section references;

(b) a description of the type of water treatment facilities, wastewater treatment facilities and method of effluent disposal;

(c) a description of the types of customers and the number of equivalent residential connections (ERCs) currenty served and proposed to be served at build out of the utility system, by meter size and customer class; and

(d) a schedule showing all current rates and charges applicable in the territory served and a statement specifying on what date and under what authority the current rates and charges were established.

(6) If an objection to the notice is timely filed, a public hearing on the objection will be held in accordance with sections 367.045(4) and 120.57, F.S.

(7) If no objection to the notice is timely filed, the Commission shall either grant or deny the application and the limited proceeding, within 90 days of the official filing date of the application. The official filing date shall be determined in accordance with Rule 25-30.032(3), F.A.C.

(8) The rates and charges approved pursuant to the request for limited proceeding shall be those approved for the purchasing utility in the county in which the system being acquired is located, as long as such rates and charges have been set by the Commission in a rate proceeding pursuant to sections 367.081(2) or 367.0814, F.S. If the purchasing utility does not have a uniform rate for that county, the rates approved pursuant to the request for limited proceeding shall be the approximate statewide average of the rates approved by this Commission for utilities in all counties in which it has jurisdiction.

(9) The applicable statewide average water and wastewater rates will be determined by this Commission regularly, but not less often than once each year.

(10) The rates approved pursuant to the request for limited proceeding shall be approved as temporary rates, subject to refund where applicable, including interest calculated in accordance with Rule 25-30.360, F.A.C., and secured by an irrevocable letter of credit, escrow account, surety bond or corporate undertaking.

(11) The purchasing utility shall maintain separate records for the acquired system for 1-year following the effective date of the temporary rates. At the end of one year, the Commission shall set permanent rates and may establish rate base of the acquired system, as defined in Rule 25-30.0371, F.A.C. The following information shall be filed for the acquired system within 60 days after the purchasing utility experiences 12 months of actual operating data:

(a) For a water system: Schedules W-1, W-2, W-3, W-4, W-5, W-6, W-7, W-8, W-9, W-10, and W-12 from Commission Form PSC/WAS 3 (3/91), Consolidated Annual Report;

(b) For a wastewater system: Schedules S-1, S-2, S-3, S-4, S-5, S-6, S-7, S-8, S-9, S-10, and S-12 from Commission Form PSC/WAS 3 (3/91), Consolidated Annual Report.

(c) A statement setting out the reasons for the inclusion of an ~~negative~~ acquisition adjustment, if one is requested.

Specific Authority: 367.121, 367.0814(7), F.S.

Law Implemented: 367.045, 367.071, 367.0814, 367.082, 367.0822, F.S.

History: New.

**25-30.039 Application for Name Change.**

(1) This rule shall apply to a certificated utility that changes its name only, with no change in the ownership or control of the utility or its assets.

(2) Each application for approval of a change in name of a certificated utility shall include the following information:

(a) The complete name, address, and type of business entity of the certificated utility;

(b) The proposed change in name and the type of business entity under the new name;

(c) A statement setting out the reasons for the name change;

(d) The effective date of the name change;

(e) In the case of a corporation, limited partnership, or any other type of entity that is chartered by the State of Florida or any other state, a copy of the certificate or other document issued by the state showing its acceptance of the entity's new name. In addition, an officer of the entity shall provide a statement that the ownership and control of the utility and its assets will not change under the proposed name. In the case of a sole proprietorship, general partnership, or any other type of entity not chartered by the State of Florida or any other state, a statement, signed by a duly authorized representative, that the ownership and control of the utility and its assets will not change under the proposed name;

(f) A proposed notice to be sent to the customers of the utility informing them of the change in utility name;

(g) An original and two copies of a proposed tariff reflecting the name change, including all standard forms; and,

(h) The applicant's current certificate.

(3) After the Commission staff approves the customer notice, the utility shall send the approved customer notice to all existing customers with the next regular billing, advising them of the name change.

Specific Authority: 367.121, F.S.

Law Implemented: 367.121, F.S.

History: New.

**25-30.060 Application for Exemption from Regulation or Nonjurisdictional Finding.**

(1) Each application for an exemption shall be filed in original and two copies, ~~except that applications filed under Section 367.022(7), Florida Statutes, shall be filed in original and 15 copies,~~ with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870. Sample application forms may be obtained from the Division of Water and ~~Sewer~~ Wastewater, Bureau of Certification, 101 East Gaines Street, Tallahassee, Florida 32399-0850~~0873~~.

(2) Each application for an exemption from regulation shall contain the following information:

(a) The name of the system owner;

(b) The physical address of the system;

(c) The mailing address of the applicant, if different from the system address;

(d) The name, address, and phone number of the primary contact person for the exemption request;

(e) The nature of the applicant's business organization, e.g., corporation, partnership, limited partnership, sole proprietorship, association; and

(f) A statement that the applicant is aware that pursuant to Section 837.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Each application must specifically state which type of exemption is being applied for and contain one of the following:

(a) For an exemption pursuant to Section 367.022(1), Florida Statutes, a statement from the owner of the system that the system is used solely to provide bottled water and that water is not provided to customers through a water main or service pipe;

(b) For an exemption pursuant to Section 367.022(2), Florida Statutes, a statement from the governmental authority specifying the statutory authority for the governmental authority; that the system is owned, operated, managed, or controlled by the governmental authority; stating whether it provides water service, wastewater service or both; and specifying the service area. The applicant shall describe with particularity the nature of the ownership, operation, management, and control of the system;

(c) For an exemption pursuant to Section 367.022(3), Florida Statutes, a statement from the manufacturer that service is provided solely in connection with its operations; stating whether it provides water service, wastewater service or both; and specifying the service area;

(d) For an exemption pursuant to Section 367.022(4), Florida Statutes, a statement from the public lodging establishment that service is provided solely in connection with service to its guests; stating whether it provides water service, wastewater service or both; and specifying the service area;

(e) For an exemption pursuant to Section 367.022(5), Florida Statutes, a statement from the landlord that it provides service solely to tenants; that charges for service are non-specifically contained in rental charges; stating whether it provides water service, wastewater service or both; and specifying the service area. A copy of the landlord's most recent version of a standard lease or rental agreement, ~~stating that there is no separate charge for water service, wastewater service, or both,~~ shall be submitted with the application;

(f) For an exemption pursuant to Section 367.022(6), Florida Statutes, a statement from the owner of the system that the system has or will have the capacity to serve 100 or fewer persons; stating whether it provides water service, wastewater service or both; and specifying the service area. The applicant shall submit documentation verifying the capacity of the system(s). For a wastewater system, the capacity of both the treatment and disposal facilities shall be documented;

(g) For an exemption pursuant to Section 367.022(7), Florida Statutes, a statement from the corporation, association, or cooperative that it is nonprofit; that it provides service solely to members who own and control it; stating whether it provides water service, wastewater service or both; specifying who will do the billing for such service; and specifying the service area. The applicant must submit its articles of incorporation as filed with the Secretary of State and its bylaws, which documents must clearly show the requirements for membership, that the members' voting rights are one vote per unit of ownership, and the circumstances under which control of the corporation passes to the non-developer members. Control of the corporation must pass: 1) at 51 percent ownership by the non-developer members or, 2) at some greater percentage delimited by a time period not to exceed 5 years from the date of incorporation. The applicant must provide proof of its ownership of the utility facilities and the land upon which the facilities will be located or other proof of its right to continued use of the land, such as a 99-year lease;

(h) For an exemption pursuant to Section 367.022(8), Florida Statutes, a statement from the reseller that service is provided at a rate or charge that does not exceed the actual purchase price; stating that the reseller is aware of the requirements of Rule 25-30.111, Florida Administrative Code; stating that the reseller is aware of the requirements of Section 367.122, Florida Statutes, and Rules 25-30.262, .263, .264, .265, .266 and .267, Florida Administrative Code, relating to examination and testing of meters; stating whether it provides water service, wastewater service or both; and specifying the service area. The reseller must also provide the name of the utility providing service to it and that utility's current rates and charges. The reseller must submit a schedule of all of its proposed rates and charges, an explanation of the proposed method of billing customers, separately, for both water and wastewater, and a schedule showing that the amount billed will not exceed the amount paid for water, wastewater, or both;

(i) For an exemption pursuant to Section 367.022(9), Florida Statutes, a statement from the owner of the wastewater system that the system is primarily for the treatment of wastewater other than domestic wastewater, such as runoff and leachate from areas that receive pollutants associated with industrial or commercial storage, handling or processing; identifying the principal source or nature of such wastewater; and specifying the service area;

(j) For a nonjurisdictional finding pursuant to Section 367.021(12), Florida Statutes, a statement from the system owner stating that it does not charge for providing utility service; specifying how operational costs of providing service are treated or recovered; stating whether it provides water service, wastewater service, or both; and specifying the service area.

Specific Authority: 367.121(1), F.S.

Law Implemented: 367.021(12), 367.022, 367.031, F.S.

History: New 1/5/92, Amended .

**25-30.090 Abandonments.**

(1) This rule applies to any person, lessee, trustee, or receiver owning, operating, managing, or controlling a utility which intends to abandon the utility. The provisions of this rule are intended to prevent service interruptions to the utility customers.

(2) The notice required by section 367.165, F.S., shall include the following:

(a) The utility's name and address;

(b) The person to contact regarding this notice, their address and telephone number;

(c) The location of the utility's books and records;

(d) The date of the notice;

(e) The date the utility will be abandoned;

(f) Whether the water system, wastewater system, or both are to be abandoned;

(g) A statement of the reason the utility is to be abandoned; (h) A statement of the status of the utility with the Department of Environmental Regulation regarding outstanding citations or violations.

(3) Within 10 days of the appointment of a receiver by the circuit court, the receiver shall request from the Commission a copy of the utility's tariff and most recent annual report.

(4) Within 90 days of the appointment of the receiver, the receiver shall file a proposed tariff revision amending the title page to reflect the name, address and telephone number of the receiver. This shall not affect the certificated name of the utility.

(5) During the pendency of the receivership, the receiver shall be responsible for fulfilling the utility's obligations pursuant to Chapter 367, F.S., and Chapter 25-30, F.A.C. In no event shall a receiver be held responsible for failure to provide safe, efficient and sufficient service where such failure is substantially caused by actions or omissions pre-dating appointment of the receiver, unless the receiver is given reasonable opportunity to rectify such failure.

(6) If the receiver appointed by the circuit court is a governmental authority as defined by section 367.021(7), F.S., the governmental authority, upon request, shall be found exempt pursuant to section 367.022(2), F.S.

Specific Authority: 367.121, F.S.

Law Implemented: 367.165, F.S.

History: New.

**25-30.111 Exemption for Resale of Utility Service, Annual Report.**

Any person who has been granted an exemption from regulation as a reseller of ~~resells~~ water or wastewater ~~sewer~~ service ~~and claims the exemption~~ provided for in subsection 367.022(8), F.S., shall file a report by March 31 of each year following the year for which the exemption is claimed. The report shall contain the following:

(1) A schedule, listing by month, the rates charged for and total revenue received from the water or wastewater service sold.

(2) A schedule, listing by month, the rates charged and total expense incurred for the purchase of the water or wastewater ~~sewer~~ service.

(3) A statement listing the source from which the water or wastewater ~~sewer~~ service was purchased.

Specific Authority: 367.121(1), F.S.

Law Implemented: 367.022(8), F.S.

History: New 3/26/81, formerly 25-10.09, Transferred from 25-10.009 11/9/86, Amended .

**25-30.117 Accounting for Pension Costs.** Any utility that has an established defined benefit pension plan as defined by the Financial Accounting Standard's Board in the Statement of Financial Accounting Standards No. 87, Employers' Accounting for Pensions (SFAS 87), shall account for these costs pursuant to SFAS 87 as it applies to business enterprises in general.

Specific Authority: 367.121, F.S.

Law Implemented: 367.121, F.S.

History: New.

**25‑30.135 Tariffs, Rules and Miscellaneous Requirements.**

(1) Each utility shall adopt and file tariffs in accordance with Chapter 25‑9, Florida Administrative Code.

(2) No utility may modify or revise its rules or regulations or its schedules of rates and charges until the utility files and receives approval from the Commission for any such modification or revision.

(3) Each utility shall maintain for customer inspection upon request during regular business hours at its main in-state business office, a current copy of Chapters 25-9, 25-22 and 25‑30, Florida Administrative Code, a current copy of Chapter 367, F.S., and a copy of the utility's current tariffs, current system(s) map(s), current territory maps, ~~rules, regulations and schedules~~ and current developer agreements. The Commission shall provide current copies of the above rules and statute to each utility.

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, F.S.

History: Amended 9/12/74, formerly 25‑10.41, Transferred from 25‑10.041 and Amended 11/9/86, Amended .

**25‑30.320 Refusal or Discontinuance of Service.**

(1) Until adequate facilities can be provided, a utility may refuse to serve an applicant if, in the best judgment of the utility, it does not have adequate facilities, or supply to render the service applied for, or if the service is of character that is likely to affect unfavorably service to other customers.

(2) As applicable, the utility may refuse or discontinue service under the following conditions provided that, unless otherwise stated, the customer shall be given written notice and allowed a reasonable time to comply with any rule or remedy any deficiency:

(a) For noncompliance with or violation of any state or municipal law or regulation governing such utility service.

(b) For failure or refusal of the customer to correct any deficiencies or defects in his piping or equipment which are reported to him by the utility.

(c) For the use of utility service for any other property or purpose than that described in the application.

(d) For failure or refusal to provide adequate space for the meter or service equipment of the utility.

(e) For failure or refusal to provide the utility with a deposit to insure payment of bills in accordance with the utility's regulation.

(f) For neglect or refusal to provide reasonable access to the utility for the purpose of reading meters or inspection and maintenance of equipment owned by the utility.

(g) For nonpayment of bills or noncompliance with utility's rules and regulations in connection with the same or a different type or a different class of utility service furnished to the same customer at the same premises by the same or affiliated utility only after there has been a diligent attempt to have the customer comply, including at least 5 working days' written notice to the customers. Such notice shall be separate and apart from any bill for service. For purposes of this subsection, "working day" means any day on which the utility's office is open and the U.S. Mail is delivered. A utility shall not, however, refuse or discontinue service for nonpayment of a dishonored check service charge imposed by the utility.

(h) Without notice in the event of a condition known to the utility to be hazardous.

(i) Without notice in the event of tampering with regulators, valves, piping, meter or other facilities furnished and owned by the utility.

(j) Without notice in the event of unauthorized or fraudulent use of service. Whenever service is discontinued for fraudulent use of such service, the utility, before restoring service, may require the customer to make at his own expense all changes in piping or equipment necessary to eliminate illegal use and to pay an amount reasonably estimated as the deficiency in revenue resulting from such fraudulent use. Service shall not be discontinued if, prior to the arrival of the utility to discontinue service, the customer has:

1. paid for all fraudulent use of service;

2. demonstrated the fraudulent use has ceased;

3. paid all other applicable fees and charges; and

4. the service condition allowing fraudulent use of service has been corrected.

(3) Service shall be restored when cause for discontinuance has been satisfactorily adjusted.

(4) In case of refusal to establish service, or whenever service is discontinued, the utility shall notify the applicant or customer in writing of the reason for such refusal or discontinuance. In all instances involving refusal or discontinuance of service the utility shall advise in its notice that persons dissatisfied with the utility's decision to refuse or discontinue service may register their complaint with the utility's Customer Relations Personnel and to the Florida Public Service Commission at 1-800-342-3552, which is a toll free number.

(5) The following shall not constitute sufficient cause for refusal or discontinuance of service to an applicant or customer:

(a) Delinquency in payment for service by a previous occupant of the premises unless the current applicant or customer occupied the premises at the time the delinquency occurred and the previous customer continues to occupy the premises and such previous customer will receive benefit from such service.

(b) Failure to pay for appliances or equipment purchased from the utility.

(c) Failure to pay for a different class of service, except where two or more classes of service are rendered to the same customer at the same premises.

(d) Failure to pay the bill of another customer as guarantor thereof.

(e) Failure to pay a dishonored check service charge imposed by the utility.

(6) No utility shall discontinue service to any customer, between 12:00 noon on a Friday and 8:00 a.m. the following Monday or between 12:00 noon on the day preceding a public holiday and 8:00 a.m. the next working day; provided, however, that this prohibition shall not apply when:

(a) Discontinuance is requested by or agreed to by the customer; or

(b) A hazardous condition exists; or

(c) Meters or other utility‑owned facilities have been tampered with; or

(d) Service is being obtained fraudulently or is being used for unlawful purposes.

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, 367.121, F.S.

History: Amended 9/12/74, 4/3/80, formerly 25‑10.74, Transferred from 25‑10.074 and Amended 11/9/86, 1/1/91, 1/11/93, .

**25‑30.335 Customer Billing.**

(1) Except as provided in this rule, a utility shall render bills to customers at regular intervals, and each bill shall indicate: the billing period covered; the applicable rate schedule; beginning and ending meter reading; the amount of the bill; ~~as applicable, gross and/or net billing, and/or discount or penalty; and final discount or penalty date; and~~ the delinquent date or the date after which the bill becomes past due; and any authorized late payment charge.

(2) If the utility estimates the bill, the utility shall indicate on the bill that the amount owed is an estimated amount.

(3) When service is rendered for less than 50 ~~fifty~~ percent of the normal billing cycle, the utility shall prorate the base facility charges as though the normal billing cycle were 30 ~~thirty~~ days, except that the utility may elect not to issue an initial bill for service if the service is rendered during a time period which is less than 50 ~~fifty~~ percent of the normal billing cycle. Instead, the utility may elect to combine the amount owed for the service rendered during the initial time period with the amount owed for the next billing cycle, and issue a single bill for the combined time period. For service taken under flat rate schedules, 50 ~~fifty~~ percent ~~(50%)~~ of the normal charges may be applied.

(4) A utility may not consider a customer delinquent in paying his or her bill until the 21st ~~twenty-first~~ day after the utility has mailed or presented the bill for payment.

(5) Each utility shall establish each point of delivery as an independent customer and shall calculate the amount of the bill accordingly, except where physical conditions make it necessary to use additional meters or points of delivery for one class of service to a single customer on the same premises, or where such multiple meters or delivery points are used for the convenience of the utility.

(6) A utility may not incorporate municipal or county franchise fees into the amount indicated as the cost for service on the customer's bill. Rather, the utility shall show any such franchise fee as a separate item.

(7) The utility shall maintain a record of each customer's account for the most current 2 ~~two~~ years so as to permit reproduction of the customer's bills during the time that the utility provided service to that customer.

(8) In the event of unauthorized use of service by a customer, a utility may bill the customer on a reasonable estimate of the service taken. In addition, the utility may assess a fee to defray the cost of restoring service to such a customer provided that the fee is specified in the utility's tariff.

(9) If a utility utilizes the base facility and usage charge rate structure and does not have a Commission authorized vacation rate, the utility shall bill the customer the base facility charge regardless of whether there is any usage.

Specific Authority: 367.121, F.S.

Law Implemented: 367.121, F.S.

History: Amended 9/14/75, 6/21/79, formerly 25‑10.97, Transferred from 25‑10.097 and 25‑10.111, and Amended 11/9/86, Amended .

**25‑30.360 Refunds.**

(1) Applicability. With the exception of deposit refunds, all refunds ordered by the Commission shall be made in accordance with the provisions of this Rule, unless otherwise ordered by the Commission.

(2) Timing of Refunds. Refunds must be made within 90 ~~ninety (90)~~ days of the Commission's order unless a different time frame is prescribed by the Commission. ~~Unless a stay has been requested in writing and granted by the Commission, a motion for reconsideration of an order requiring a refund will not delay the timing of the refund.~~ A timely motion for reconsideration temporarily stays the refund, pending the final order on the motion for reconsideration. In the event of ~~that~~ a stay ~~is granted~~ pending reconsideration, the timing of the refund shall commence from the date of the order disposing of any motion for reconsideration. This rule does not authorize any motion for reconsideration not otherwise authorized by Chapter 25‑22, Florida Administrative Code.

(3) Basis of Refund. Where the refund is the result of a specific rate change, including interim rate increases, and the refund can be computed on a per customer basis, that will be the basis of the refund. However, where the refund is not related to specific rate changes, such as a refund for overearnings, the refund shall be made to customers of record as of a date specified by the Commission. In such case, refunds shall be made on the basis of usage. Per customer refund refers to a refund to every customer receiving service during the refund period. Customer of record refund refers to a refund to every customer receiving service as of a date specified by the Commission.

(4) Interest.

(a) In the case of refunds which the Commission orders to be made with interest, the average monthly interest rate until refund is posted to the customers account shall be based on the 30 ~~thirty (30)~~ day commercial paper rate for high grade, unsecured notes sold through dealers by major corporations in multiples of $1,000 as regularly published in the Wall Street Journal.

(b) This average monthly interest rate shall be calculated for each month of the refund period:

1.By adding the published interest rate in effect for the last business day of the month prior to each month of the refund period and the published rate in effect for the last business day of each month of the refund period, divided by 24 ~~twenty four (24)~~ to obtain the average monthly interest rate;

2.The average monthly interest rate for the month prior to distribution shall be the same as the last calculated average monthly interest rate.

(c) The average monthly interest rate shall be applied to the sum of the previous month's ending balance (including monthly interest accruals) and the current month's ending balance divided by 2 ~~two (2)~~ to accomplish a compounding effect.

(d) Interest Multiplier. When the refund is computed for each customer, an interest multiplier may be applied against the amount of each customer's refund in lieu of a monthly calculation of the interest for each customer. The interest multiplier shall be calculated by dividing the total amount refundable to all customers, including interest, by the total amount of the refund, excluding interest. For the purpose of calculating the interest multiplier, the utility may, upon approval by the Commission, estimate the monthly refundable amount.

(e) Commission staff shall provide applicable interest rate figures and assistance in calculations under this Rule upon request of the affected utility.

(5) Method of Refund Distribution. For those customers still on the system, a credit shall be made on the bill. In the event the refund is for a greater amount than the bill, the remainder of the credit shall be carried forward until the refund is completed. If the customer so requests, a check for any negative balance must be sent to the customer within 10 ~~ten (10)~~ days of the request. For customers entitled to a refund but no longer on the system, the company shall mail a refund check to the last known billing address except that no refund for less than $1.00 will be made to these customers.

(6) Security for Money Collected Subject to Refund. In the case of money being collected subject to refund, the money shall be secured by a bond unless the Commission specifically authorizes some other type of security such as placing the money in escrow, approving a corporate undertaking, or providing a letter of credit. The company shall provide a report by the 20th of each month indicating the monthly and total amount of money subject to refund as of the end of the preceding month. The report shall also indicate the status of whatever security is being used to guarantee repayment of the money.

(7) Refund Reports. During the processing of the refund, monthly reports on the status of the refund shall be made by the 20th of the following month. In addition, a preliminary report shall be made within 30 ~~thirty (30)~~ days after the date the refund is completed and again 90 days thereafter. A final report shall be made after all administrative aspects of the refund are completed. The above reports shall specify the following:

(a) The amount of money to be refunded and how that amount was computed;

(b) The amount of money actually refunded;

(c) The amount of any unclaimed refunds; and

(d) The status of any unclaimed amounts.

(8) Any unclaimed refunds shall be treated as cash contributions-in-aid-of-construction.

~~(8) With the last report under subsection (7) of this Rule, the company shall suggest a method for disposing of any unclaimed amounts. The Commission shall then order a method of disposing of the unclaimed funds.~~

Specific Authority: 350.127(2), F.S.

Law Implemented: 367.081(6), 367.082(2), F.S.

History: New 8/17/83, formerly 25‑10.76, Transferred from 25‑10.076 11/9/86, Amended .

**25‑30.430 Test Year Approval.**

(1) Prior to the filing of an application for a general rate increase a utility shall submit to the Commission a written request for approval of a test year, supported by a statement of reasons and justifications showing that the requested test year is representative of utility operations. The Commission Chairman will then approve or disapprove the request within 30 days from the receipt of the request. In disapproving the requested test year, the Chairman may suggest another test year. Within 30 days of the Chairman's approval or disapproval of a test year, upon request of any interested person the full Commission may review the Chairman's test year decision.

(2) Each applicant for test year approval shall submit the following information in its written request to the Chairman:

(a) A statement explaining why the requested test year is representative of the utility's current operations.

(b) A general statement of major plant expansions or changes in operational methods which:

1. Have occurred in the most recent 18 months or since the last test year, whichever is less;

2. Will occur during the requested test year.

(c) A general statement of all known estimated pro forma adjustments which will be made to the requested test year amounts.

(d) If a projected test year is requested, provide an explanation as to why the projected period is more representative of the utility's operations than a historical period.

(3) Any requests for extensions of time to file the application shall be made to the Director, Division of Water and Wastewater. Upon good cause shown and if the extension will not cause the approved test year to be unrepresentative, the Director may grant an extension in writing.

~~(3) In the test year approval letter the Commission Chairman may advise whether or not prepared testimony in support of the utility's application will be required to be filed as part of the minimum filing requirements.~~

~~(a) Prepared testimony will be required, as part of the minimum filing requirements, for all cases anticipated to require a formal hearing, rather than a proposed agency action process.~~

~~(b) Where prepared testimony is not required to be filed as part of the minimum filing requirements, it may be required by the Commission or the Commission Chairman during a rate case proceeding.~~

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, 350.01(5), F.S.

History: New 6/10/75, Amended 6/13/79, 3/26/81, 9/27/83, Transferred from 25‑10.175 and Amended 11/9/86, 6/25/90, .

**ALTERNATIVE RULE PROPOSAL**

**25‑30.430 Test Year Notification ~~Approval~~.**

(1) At least 90 days prior to filing an application for a general rate increase pursuant to section 367.081(2)(a), F.S., the utility shall notify the Commission in writing that it intends to file. The notification shall contain the following:

(a) The test year selected for both interim and final rates.

(b) The historic base year that will be used if a projected test year is to be filed.

(c) The anticipated filing date for the application.

(2) Any requests for extensions of time to file the application shall be made to the Director, Division of Water and Wastewater. Upon good cause shown and if the extension will not cause the approved test year to be non-representative, the Director may grant an extension in writing.

~~(1) Prior to the filing of an application for a general rate increase a utility shall submit to the Commission a written request for approval of a test year, supported by a statement of reasons and justifications showing that the requested test year is representative of utility operations. The Commission Chairman will then approve or disapprove the request within 30 days from the receipt of the request. In disapproving the requested test year, the Chairman may suggest another test year. Within 30 days of the Chairman's approval or disapproval of a test year, upon request of any interested person the full Commission may review the Chairman's test year decision.~~

~~(2) Each applicant for test year approval shall submit the following information in its written request to the Chairman:~~

~~(a) A statement explaining why the requested test year is representative of the utility's current operations.~~

~~(b) A general statement of major plant expansions or changes in operational methods which:~~

~~1.Have occurred in the most recent 18 months or since the last test year, whichever is less;~~

~~2.Will occur during the requested test year.~~

~~(c) A general statement of all known estimated pro forma adjustments which will be made to the requested test year amounts.~~

~~(d) If a projected test year is requested, provide an explanation as to why the projected period is more representative of the utility's operations than a historical period.~~

~~(3) In the test year approval letter the Commission Chairman may advise whether or not prepared testimony in support of the utility's application will be required to be filed as part of the minimum filing requirements.~~

~~(a) Prepared testimony will be required, as part of the minimum filing requirements, for all cases anticipated to require a formal hearing, rather than a proposed agency action process.~~

~~(b) Where prepared testimony is not required to be filed as part of the minimum filing requirements, it may be required by the Commission or the Commission Chairman during a rate case proceeding.~~

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, 350.01(5), F.S.

History: New 6/10/75, Amended 6/13/79, 3/26/81, 9/27/83, Transferred from 25‑10.175 and Amended 11/9/86, 6/25/90, .

**25-30.432 Used and Useful in Rate Case Proceedings.**

(1) The Commission shall allow a utility to recover, through authorized rates, charges and fees, the costs incurred in meeting its statutory obligations to provide safe, efficient and sufficient service. The utility's investment, prudently incurred, in meeting its statutory obligations shall be considered used and useful.

(2) It is the policy of the Commission to encourage utility planning that recognizes conservation, environmental protection, economies of scale, and which is economically beneficial to its customers over the long term.

(3) In determining those portions of water and wastewater systems that are used and useful in serving the public, the Commission shall consider:

(a) the design and construction requirements set forth in Chapter 17-555, F.A.C., Permitting and Construction of Public Water Systems and Chapter 17-600, F.A.C., Domestic Wastewater Facilities;

(b) the investment in land acquired or facilities constructed or to be constructed in the public interest within a reasonable time in the future;

(c) the prudence of the investment, taking into consideration such factors as the treatment process, water storage capacity, economies of scale, the historical and projected rate of growth in customers and demand, seasonal demand characteristics, residential and commercial mix, and the configuration of the service area.

(4) To encourage long-term planning and least cost system design, the Commission, at a minimum, shall consider as used and useful the level of investment that would have been required had the utility designed and constructed the system to serve only its existing customer base.

(5) For the purpose of calculating used and useful, the following specific factors shall apply. When applying these factors, references to customer demand shall mean the demand per equivalent residential connection (ERC) used for design or permitting or the actual historical demand per ERC, whichever is greater.

(a) Margin Reserve

1. The Commission recognizes that for a utility to meet its statutory responsibility, it must have sufficient capacity and investment to meet the existing and changing demands of present customers and the demands of potential customers within a reasonable time. The investment needed to meet the demands of potential customers and the changing demands of existing customers is defined as margin reserve. As a matter of policy, the Commission recognizes margin reserve as a component of used and useful rate base.

2. In determining the allowable investment in margin reserve, the Commission shall consider, but not be limited to, the functions of each component of plant (treatment, transmission, distribution, etc.), the treatment process, regulatory requirements, including those requiring plant redundancies, regulatory lag, the rate of growth in customers and demand, seasonal demand characteristics, the economies of scale, and the construction time frame.

3. As a part of its rate filing, the utility shall submit historical data for a minimum of five years preceding the test year for the year-end number of customers by class and meter size; the annual sales by class; the annual treated or pumped flows for the system; and monthly system peak day flows.

4. Unless otherwise justified, the following margin reserve allowances shall be used:

a. Water source and treatment facilities and wastewater treatment and disposal facilities: 20 percent of the permitted or actual ERC capacity, whichever is greater;

b. Prudently constructed water transmission mains and off-site wastewater force and gravity collector mains and pumping stations shall be considered 100 percent used and useful, and margin reserve shall therefore not be a factor.

c. Non-contributed on-site water distribution mains and services and on-site wastewater collection mains, pumping stations and laterals: 20 percent of the ERCs capable of being served. However, where the utility demonstrates that such portions of the system will likely reach build-out within 36 months after the test year, such portions of the system shall be considered 100 percent used and useful, and margin reserve shall therefore not be a factor.

(b) Fire Flow

1. Fire flow shall be considered in used and useful calculations for any utility that requests that fire flow be a consideration it its system requirements.

2. Insufficient capacity to provide adequate fire flows shall not be grounds to exclude fire flows as a factor in determining used and useful; however the Commission may require the utility to take the steps necessary to provide adequate fire flow capacity. In doing so, the Commission shall set a reasonable timetable for compliance and may withhold that portion of the rates associated with the required additions and fire flow capacity allowed, until the requirements set by the Commission are met.

3. When fire flow requirements are set by a governmental authority, those requirements shall be the basis for determining the fire flow component of used and useful. In such cases, as part of its rate filing, the utility shall identify and file with the Commission a copy of the applicable governmental fire flow requirements. In all other cases, unless specific support is provided, the Commission shall consider a minimum fire flow demand to be 500 gallons per minute (gpm) for single family and 1,500 gpm for multiple family and commercial areas for a duration of 2 hours for needed fire flows up to 2500 gpm, and 3 hours for needed fire flows of 3000 and 3500 gpm. Such requirements shall be satisfied without causing deterioration of water pressure below 20 pounds per square inch (psi).

(c) Unaccounted for Water

1. The Commission's policy is to recognize conservation of water as a fundamental and proper concern of water system operation. The Commission encourages water utilities to exercise good operational and economic management toward preventing depletion and wasteful use of this important natural resource. Good modern water utility practice dictates that, wherever possible, all customer services and plant output and plant uses be metered and reasonable records be kept.

2. Unaccounted for water is all water produced or purchased by a water utility that is neither sold, metered nor accounted for in the records of the utility. Water, other than that sold, that shall be accounted for includes, but is not limited to, water for plant operations, line flushing, hydrant testing, hydrant use, sewer cleaning, street cleaning, line breaks, leakage, theft, unauthorized use, malfunctions and meter errors.

3. The Commission recognizes that some uses of water are readily measurable and others are not. The Commission encourages each utility to establish procedures to measure or estimate the quantity of water used but not sold, by cause, and to maintain documentation for those measurements and estimates.

4. The Commission shall consider the amount of unaccounted for water in determining used and useful expenses and shall allow the American Water Works Association's Standards' design level of leakage (2-3 percent plus the standard 10 percent for a maximum of 12.5 percent) without further explanation. The Commission may impute revenues or reduce purchased power and chemical expenses where inadequate explanation is given for unaccounted for water in excess of this amount.

(d) Infiltration and Inflow

1. The Commission's policy is to consider the impact of infiltration and inflow on wastewater treatment and collection systems in determining the appropriate level of operation and maintenance expenses. Infiltration refers to those extraneous flows (usually from groundwater sources) that enter the wastewater system through openings in pipes that may be caused by normal deterioration, corrosion,or damage from ground movement or structural overload. Inflow refers to extraneous flows from sources other than infiltration, such as surface water run-off into manholes or from unauthorized connections to surface water sources. Although a utility has little control over the amount of inflow, it shall provide an estimate, with support, of the annual flows in its system due to inflow. Without specific support, allowable inflow will be 10 percent of treated flows.

2. The Commission recognizes as reasonable the Infiltration Specification Allowances set forth in Water Environment Federation Manual of Practice No. 9. Absent sufficient justification to the contrary, excess infiltration is defined as flows in excess of 500 gallons per day per inch diameter of pipe per mile (gpd/in. diam/mile) for all lines, including service laterals.

(e) Cost/benefit Analysis - The Commission may order a utility to perform a cost/benefit analysis to determine the amount of water losses or wastewater infiltration that may be economically eliminated. If the cost/benefit analysis is ordered by the Commission in the course of evaluating a rate application, the actual or estimated prudent cost of the analysis shall be recovered through the revenues authorized in that rate proceeding, and the cost shall be amortized over three years. If the analysis is ordered outside of a formal rate proceeding, the utility may request the cost be recovered through a limited proceeding pursuant to section 367.0822, F.S.

(f) Used and Useful Analysis -

1. As a part of its rate filing, each utility shall provide a determination of the used and useful percentage for each primary plant account along with the supporting formulas and documentation.

2. In lieu of presenting evidence in support of used and useful percentages, the utility may elect to use the default formulas in Rule 25-30.432(6), F.A.C., for calculating used and useful percentages for water supply, treatment, pumping and storage equipment, water transmission and distribution systems, wastewater treatment and effluent disposal equipment, and wastewater pumping and collection systems. The terms used in the default formulas are defined in Rule 25-30.432(7).

(6) Used and useful default formulas.

(a) Small water systems (less than 1 million gallons per day (MGD) capacity).

1. Small water systems (less than 1 MGD capacity) with adequate reliable finished water storage capacity to meet the local fire flow ordinances and to meet the peak hour demand of its customers shall use the following formulas:

a.Water source of supply:

(Maximum Day Demand + Margin Reserve) / Firm Reliable Capacity

b.Water treatment equipment:

(Maximum Day Demand + Margin Reserve) / Firm Reliable Capacity

c.Finished water storage:

(Equalization Volume + Fire Flow Requirement + Emergency Storage + Margin Reserve) / Firm Reliable Capacity

d.Water high service pumping:

(Instantaneous Demand + Margin Reserve) / Firm Reliable Capacity

or, if the utility chooses:

(Peak Hour Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

e.Other water facilities: 100 percent used and useful

f.Water transmission system: 100 percent used and useful

g. Water distribution system - non-developer related: 100% used and useful

h. Water distribution system - developer related, single family developments:

((Lots Served + Fill-in Lots + Margin Reserve) / Lots with Service Available) + Fire Flow Allowance

i. Water distribution system - developer related, mixed developments (e.g., single family, multi-family and commercial):

((Connected ERCs + Fill-in ERCs + Margin Reserve) / ERC Capacity) + Fire Flow Allowance

2. Small water systems (less than 1 MGD capacity) with no storage facilities other than hydropneumatic tanks or with insufficient storage to buffer the instantaneous demands of its customers shall use the following formulas:

a.Water source of supply:

(Instantaneous Demand + Margin Reserve) / Firm Reliable Capacity

or, if the utility chooses:

(Maximum Day Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

b.Water treatment equipment:

(Instantaneous Demand + Margin Reserve) / Firm Reliable Capacity

or, if the utility chooses:

(Maximum Day Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

c.Finished water storage: 100 percent used and useful

d.Water high service pumping:

(Instantaneous Demand + Margin Reserve) / Firm Reliable Capacity

or, if the utility chooses:

(Peak Hour Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

e.Other water facilities: 100 percent used and useful

f.Water transmission system: 100 percent used and useful

g. Water distribution system - non-developer related: 100 percent used and useful

h. Water distribution system - developer related, single family developments:

((Lots Served + Fill-in Lots + Margin Reserve) / Lots with Service Available) + Fire Flow Allowance

i. Water distribution system - developer related, mixed developments (e.g., single family, multi-family and commercial):

((Connected ERCs + Fill-in ERCs + Margin Reserve) / ERC Capacity) + Fire Flow Allowance

(b) Medium water systems (1 MGD to 5 MGD Capacity):

1. Medium water systems (1 MGD to 5 MGD capacity) with adequate reliable finished water storage capacity to meet the local fire flow ordinances and to meet the peak hour demand of its customers shall use the following formulas:

a.Water source of supply:

(Maximum Day Demand + Margin Reserve) / Firm Reliable Capacity

b.Water Treatment Equipment:

(Maximum Day Demand + Margin Reserve) / Firm Reliable Capacity

c.Finished water storage:

(Equalization Volume + Fire Flow Requirement + Emergency Storage + Margin Reserve) / Firm Reliable Capacity

d.Water high service pumping:

(Peak Hour Demand + Margin Reserve) / Firm Reliable Capacity

or, if the utility chooses:

(Maximum Day Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

e.Other water facilities: 100 percent used and useful

f. Water transmission system: 100 percent used and useful

g. Water distribution system - non-developer related: 100 percent used and useful

h. Water distribution system - developer related, single family developments:

((Lots Served + Fill-in Lots + Margin Reserve) / Lots with Service Available) + Fire Flow Allowance

i. Water distribution system - developer related, mixed developments (e.g., single family, multi-family and commercial):

((Connected ERCs + Fill-in ERCs + Margin Reserve) / ERC Capacity) + Fire Flow Allowance

2. Medium water systems (1 MGD to 5 MGD capacity) with no storage facilities other than hydropneumatic tanks or with insufficient storage to buffer the instantaneous demands of its customers shall use the following formulas:

a.Water source of supply:

(Peak Hour Demand + Margin Reserve) / Firm Reliable Capacity

or, if the utility chooses:

(Maximum Day Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

b.Water treatment equipment:

(Peak Hour Demand + Margin Reserve) / Firm Reliable Capacity

or, if the utility chooses:

(Maximum Day Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

c. Finished water storage: 100 percent used and useful

d.Water high service pumping:

(Peak Hour Demand + Margin Reserve) / Firm Reliable Capacity

or, if the utility chooses:

(Maximum Day Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

e. Other water facilities: 100 percent used and useful

f. Water transmission system: 100 percent used and useful

g. Water distribution system - non-developer related: 100 percent used and useful

h. Water distribution system - developer related, single family developments:

((Lots Served + Fill-in Lots + Margin Reserve) / Lots with Service Available) + Fire Flow Allowance

i. Water distribution system - developer related, mixed developments (e.g., single family, multi-family and commercial):

((Connected ERCs + Fill-in ERCs + Margin Reserve) / ERC Capacity) + Fire Flow Allowance

(c) Large water systems (over 5 MGD Capacity):

1. Large water systems (over 5 MGD capacity) with adequate reliable finished water storage capacity to meet the local fire flow ordinances and to meet the peak hour demand of its customers shall use the following formulas:

a.Water source of supply:

(Average 5 Maximum Days Demand + Margin Reserve) / Firm Reliable Capacity

b.Water treatment equipment:

(Average 5 Maximum Days Demand + Margin Reserve) / Firm Reliable Capacity

c.Finished water storage:

(Equalization Volume + Fire Flow Requirement + Emergency Storage + Margin Reserve) / Firm Reliable Capacity

d.Water high service pumping:

(Peak Hour Demand + Margin Reserve) / Firm Reliable Capacity

or, if the utility chooses:

(Maximum Day Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

e.Other water facilities: 100 percent used and useful

f. Water transmission system: 100 percent used and useful

g. Water distribution system - non-developer related: 100 percent used and useful

h. Water distribution system - developer related, single family developments:

((Lots Served + Fill-in Lots + Margin Reserve) / Lots with Service Available) + Fire Flow Allowance

i. Water distribution system - developer related, mixed developments (e.g., single family, multi-family and commercial):

((Connected ERCs + Fill-in ERCs + Margin Reserve) / ERC Capacity) + Fire Flow Allowance

2. Large water systems (over 5 MGD capacity) with no storage facilities other than hydropneumatic tanks or with insufficient storage to buffer the instantaneous demands of its customers shall use the following formulas:

a.Water source of supply:

(Maximum Day Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

b.Water treatment equipment:

(Maximum Day Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

c. Finished water storage: 100 percent used and useful

d.Water high service pumping:

(Peak Hour Demand + Fire Flow Requirement + Margin Reserve) / Firm Reliable Capacity

e. Other water facilities: 100 percent used and useful

f. Water transmission system: 100 percent used and useful

g. Water distribution system - non-developer related: 100 percent used and useful

h. Water distribution system - developer related, single family developments:

((Lots Served + Fill-in Lots + Margin Reserve) / Lots with Service Available) + Fire Flow Allowance

i. Water distribution system - developer related, mixed developments (e.g., single family, multi-family and commercial):

((Connected ERCs + Fill-in ERCs + Margin Reserve) / ERC Capacity) + Fire Flow Allowance

(d) Wastewater systems:

1. Wastewater collection system and pumping stations - non-developer related: 100 percent used and useful

2. Wastewater collection system and pumping stations - developer related, single family developments:

(Lots Served + Fill-in Lots + Margin Reserve) / Lots with Service Available

3. Wastewater collection system and pumping stations - developer related, mixed developments (e.g., single family, multi-family and commercial):

(Connected ERCs + Fill-in ERCs + Margin Reserve) / ERC Capacity

4. Wastewater force mains: 100 percent used and useful

5.Wastewater treatment equipment:

(Maximum Month Flow + Margin Reserve) / Firm Reliable Capacity

6.Effluent disposal facilities:

(Maximum Month Flow + Margin Reserve) / Firm Reliable Capacity

7. Other wastewater facilities: 100 percent used and useful

(7) Definitions - the following definitions apply to the default formulas in Rule 25-30.432(6), F.A.C., for determining used and useful water and wastewater facilities.

(a) Average 5 Maximum Days Demand - the average of the 5 days with the greatest demand attained by a water system during the past 5 years, exclusive of emergency or fire flow events.

(b) Effluent Disposal Facilities - this includes, but is not limited to, the transmission lines, percolation and evaporation ponds, sprayfields, irrigation systems, and deep wells utilized in the disposal of effluent or reclaimed water.

(c) Emergency Storage - that storage required by a water system to meet the emergency-like demands of the customers. Typically, Emergency Storage is made available when it is more cost effective to provide the storage and pumping facilities than to add redundancy to the system for emergency conditions. The quantity of Emergency Storage need is a function of the duration of the emergency condition and is typically assumed to be approximately one half of the average annual daily demand.

(d) Equalization Volume - the quantity of storage in a water system necessary to meet the customers' greatest demands which are beyond the throughput capacity of the source of supply or water treatment equipment.

(e) Fill-in Lots - The total number of unoccupied residential lots on isolatable sections of the distribution system in which at least 25 percent of the lots are currently, or in the past have been provided active water or wastewater service, as applicable.

(f) Fire Flow Allowance - an allowance for the capacity of a water distribution system, calculated using the following formula:

Fire Flow Allowance = (Fire Flow Requirement / (Fire Flow Requirement + Maximum Day Demand)) X (1 -((Average number of ERCs connected to the distribution system + Margin Reserve in ERCs) / Capacity of the distribution system in ERCs))

(g) Fire Flow Requirement - as defined in 25-30.432(5)(b), F.A.C.

(h) Firm Reliable Capacity - the capacity of a particular component of a water or wastewater facility in which at least the largest unit is assumed to be out of service. If the used and useful category contains several components, the Firm Reliable Capacity is assumed to be the limiting component in that category with the largest unit out of service. For finished water storage, the Firm Reliable Capacity excludes any unusable or dead storage.

(i) Instantaneous Demand - the greatest demand that a water system attains. It is typically used only as a design criteria for small water systems with no storage and a small distribution system that does not have the ability to absorb these instantaneous demands through depressurization of the distributions system. Rule 25-30.432(8), F.A.C., shall be used to determine the instantaneous demand unless specific quantitative information indicates greater demands.

(j) Large Water System - a system that has a reliable capacity of more than 5 million gallons per day. Based upon Rule 17-699.310(4), F.A.C., operation requirements, a Large Water System would require at least one shift per day of operations for a Category IV or V system (aeration or chlorination) and at least a double shift of operations for Category I, II, or III (filtration, softening or reverse osmosis).

(k) Lots Served - the total number of residential lots that are currently, or in the past have been, provided active water or wastewater service, as applicable, plus lots occupied but never connected to the system that are capable of being provided service by the existing distribution or collection system.

(l) Lots with Service Available - the total number of residential lots that currently have the water distribution or wastewater collection system, as applicable, immediately available.

(m) Margin Reserve - as defined in 25-30.432(5)(a), F.A.C.

(n) Maximum Day Demand - the maximum daily demand that a water system attained during the past 5 years of time, exclusive of emergency or fire flow events. Typical design criteria allow .55 gpm per ERC.

(o) Maximum Month Flow - the average daily flow through a wastewater treatment facility for the month with the highest total flow during the past five years.

(p) Medium Water System - a system that has a reliable capacity of between 1 million gallons per day and 5 million gallons per day. Based upon Rule 17-699.310(4), F.A.C., operation requirements, a Medium Water System would require less than 24 hours per day operation but greater operational requirements than a small system.

(q) Other Wastewater Facilities - this includes, but is not limited to, disinfection units, emergency generators, auxiliary engines, customer service laterals, laboratory equipment, utility office and other general plant and equipment used in the operation of a wastewater system.

(r) Other Water Facilities - this includes, but is not limited to, disinfection facilities, emergency generators, auxiliary engines, customer service lines and meters, laboratory equipment, utility office and other general plant used in the operation of a water system.

(s) Peak Hour Demand - the greatest demand attained by a water system over a sustained period of 60 minutes. Typical design criteria allows for a Peak Hour Demand of 2 times the maximum day demand or 1.1 gpm per ERC.

(t) Small Water System - a system that has a reliable capacity of less than 1 million gallons per day. Based upon Rule 17-699.310(4), F.A.C., operation requirements, a Small Water System would require less than 1 hour per day visit for a Category IV or V system (aeration and chlorination) and less than 8 hours of operation for a Category I, II or III system (filtration, softening or reverse osmosis).

(u) Wastewater Collection System and Pumping Stations - this includes, but is not limited to, all the gravity collection lines from the customer sewer lateral to and including the wastewater pumping stations.

(v) Wastewater Force Mains - this includes, but is not limited to, the force mains from the discharge of the pumping stations to the influent structure at the wastewater treatment facilities.

(w) Wastewater Treatment Equipment - this includes, but is not limited to, the influent structure, pretreatment facilities, pumping, aeration, clarification, filtration, chlorine contact and effluent pumping equipment.

(8) Unless specific quantitative information indicates greater demands, a water system's Instantaneous Demand, for purposes of determining used and useful, will be calculated from the following table:

INSTANTANEOUS DEMANDS PER ERC

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| No.  of  ERCs | Instantaneous  Demand  (GPM) | No.  of  ERCs | Instantaneous  Demand  (GPM) | No.  of  ERCs | Instantaneous  Demand  (GPM) | No.  of  ERCs | Instantaneous  Demand  (GPM) |
| 1 | 15 | 26 | 124 | 51 | 203 | 76 | 279 |
| 2 | 20 | 27 | 128 | 52 | 206 | 77 | 282 |
| 3 | 25 | 28 | 132 | 53 | 209 | 78 | 285 |
| 4 | 30 | 29 | 136 | 54 | 212 | 79 | 288 |
| 5 | 35 | 30 | 140 | 55 | 215 | 80 | 291 |
| 6 | 40 | 31 | 143 | 56 | 218 | 81 | 294 |
| 7 | 45 | 32 | 146 | 57 | 221 | 82 | 297 |
| 8 | 50 | 33 | 149 | 58 | 224 | 83 | 300 |
| 9 | 55 | 34 | 152 | 59 | 227 | 84 | 303 |
| 10 | 60 | 35 | 155 | 60 | 230 | 85 | 306 |
| 11 | 64 | 36 | 158 | 61 | 233 | 86 | 309 |
| 12 | 68 | 37 | 161 | 62 | 237 | 87 | 312 |
| 13 | 72 | 38 | 164 | 63 | 240 | 88 | 315 |
| 14 | 76 | 39 | 167 | 64 | 243 | 89 | 318 |
| 15 | 80 | 40 | 170 | 65 | 246 | 90 | 321 |
| 16 | 84 | 41 | 173 | 66 | 249 | 91 | 324 |
| 17 | 88 | 42 | 176 | 67 | 252 | 92 | 327 |
| 18 | 92 | 43 | 179 | 68 | 255 | 93 | 330 |
| 19 | 96 | 44 | 182 | 69 | 258 | 94 | 333 |
| 20 | 100 | 45 | 185 | 70 | 261 | 95 | 336 |
| 21 | 104 | 46 | 188 | 71 | 264 | 96 | 339 |
| 22 | 108 | 47 | 191 | 72 | 267 | 97 | 342 |
| 23 | 112 | 48 | 194 | 73 | 270 | 98 | 345 |
| 24 | 116 | 49 | 197 | 74 | 273 | 99 | 348 |
| 25 | 120 | 50 | 200 | 75 | 276 | 100 | 351 |

For systems greater than 100 ERCs, ID = 351 x ERCs/100 in GPM

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, F.S.

History: New.

**25-30.433 Rate Case Proceedings.** In a rate case proceeding, the following provisions shall apply, unless, for good cause shown, the applicant or any intervenor demonstrates that these rules result in an unreasonable burden. In these instances, fully supported alternatives will be considered by the Commission. Any alternatives proposed by the utility must be filed with the minimum filing requirements.

(1) The Commission in every rate case shall make a determination of the quality of service provided by the utility. This shall be derived from an evaluation of three separate components of water and wastewater utility operations: quality of utility's product (water and wastewater); operational conditions of utility's plant and facilities; and the utility's attempt to address customer satisfaction. Sanitary surveys, outstanding citations, violations and consent orders on file with the Department of Environmental Regulation (DER) and county health departments (HRS) or lack thereof over the preceding 3-year period shall also be considered. DER and HRS officials' testimony concerning quality of service as well as the testimony of utility's customers shall be considered.

**OPTION 1**

(2) Working capital shall be calculated as one-eighth of operation and maintenance expenses.

**OPTION 2**

(2) Working capital shall be calculated using the balance sheet method for Class A and B utilities. Working capital shall be calculated as one-eighth of operation and maintenance expense for all Class C utilities.

**OPTION 3**

(2) Working capital shall be calculated using the balance sheet method for all utilities with multiple systems and combined annual operating revenues of $750,000 or more. Working capital shall be calculated as one-eighth of operation and maintenance expense for all other utilities.

**OPTION 4**

(2) The utility may calculate and include in rate base a provision for its annual working capital needs under whatever method that best reflects those needs. The most common methods utilized for this purpose are the balance sheet method or one-eighth of operating and maintenance expense (formula method). Unless a utility demonstrates that another method is more appropriate, working capital shall be calculated utilizing the formula approach.

(3) Debit deferred taxes created due to income taxes associated with used and useful Contributions-in-Aid-of-Construction (CIAC) shall be offset against credit deferred taxes in the capital structure. Any resulting net debit deferred taxes shall be included as a separate line item in the rate base calculation. No other deferred debits shall be considered in rate base when the formula method of working capital is used.

(4) The averaging method used by the Commission for rate base and cost of capital is the simple beginning and end-of-year average.

(5) Non-used and useful plant adjustments shall be applied to the applicable depreciation expense.

**OPTION 1**

(6) CIAC shall not be imputed on the margin reserve calculation.

[OR]

**OPTION 2**

(6) CIAC shall be imputed on the margin reserve calculation. The imputation shall be calculated by taking the number of equivalent residential connections (ERCs) included in the margin reserve, multiplied by the approved service availability charge for each system. If a utility collects prepaid CIAC, then the amount of prepaid CIAC associated with used and useful plant, including the margin reserve, shall be included as a reduction to rate base. The maximum amount of prepaid CIAC or imputed CIAC, included as a reduction to rate base, shall not exceed the amount of used and useful plant included in the margin reserve allowance.

(7) Income tax expense shall not be allowed for Subchapter S corporations, partnerships or sole proprietorships.

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

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

(10) A utility is required to own the land upon which the utility treatment facilities are located, or possess the right to the continued use of the land, such as a 99-year lease.

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

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, F.S.

History: New.

**25-30.434 Application for Allowance For Funds Prudently Invested (AFPI) Charges.**

(1) An Allowance For Funds Prudently Invested (AFPI) charge is a mechanism which allows a utility the opportunity to earn a fair rate of return on prudently constructed plant held for future use from the future customers to be served by that plant in the form of a charge paid by those customers.

(2) Each application for AFPI charges shall comply with the notice requirements specified in Rule 25-22.0408, F.A.C.

(3) Each application for AFPI charges shall provide the following information. If any of the following items do not apply to the applicant, the applicant shall state the reason it does not apply.

(a) The applicant's name and address.

(b) A statement describing how the noticing requirements have been complied with, including a copy of the actual notice(s).

(c) The numbers of all Commission order(s) that:

1. previously established customer rates for the applicant either in a rate case or a reverse make-whole proceeding; and

2. established AFPI charges for the applicant.

(d) The charge shall be calculated for one equivalent residential connection (ERC) on a monthly basis up to the time the utility reaches the designed capacity of the plant for which the charge applies. The charges shall cease when the plant has reached its designed capacity.

(e) A statement explaining the basis for the requested charges and conditions.

(f) The dollar amount of the non-used and useful plant and the accumulated depreciation that has been recovered in previous AFPI charges, and the methodology used to determine these amounts. The net of these two amounts shall be considered the cost of qualifying assets. Separate balances for plant and for accumulated depreciation shall be reported for the water treatment plant, wastewater treatment plant, water transmission and distribution system and wastewater collection system.

(g) The plant capacity related to each of the systems in (f) above and the methodology used to determine the amount.

(h) The number of future customers in number of ERCs related to the non-used and useful plant by system.

(i) The amount of depreciation expense and composite depreciation rate related to the non-used and useful plant by system.

(j) The overall rate of return requested for the AFPI charge and the workpapers supporting the calculation.

(k) The last authorized rate of return on equity and references to the docket number of the last rate case and the resulting order.

(l) The state and federal income tax rates requested for calculating the AFPI charge.

(m) All other costs such as non-used and useful property taxes and operation and maintenance expenses removed in the last rate case.

(n) The test year to be used in the calculation, the month that the utility expects the charge to go into effect and the number of years the utility expects to collect the charge. Provide a detailed explanation of why the number of years to collect the charge represents a reasonable and prudent management decision in the construction of plant.

(o) The workpapers and calculations used to develop the proposed AFPI charge. The utility may obtain a diskette that outlines the calculation and schedules to be used by calling or writing the Bureau of Economic Regulation, Division of Water and Wastewater, 904/488-8482. The required schedules that shall be submitted are "AFPI Filing Schedules", Commission Form PSC/WAW 18 ( / ), incorporated by reference into this rule, and are as follows:

Schedule 1 - List of Information Imputed Into Calculation

Schedule 2 - Calculation Of Carrying Costs Per ERC

Schedule 3 - Calculation Of Carrying Costs Per ERC Per Year

Schedule 4 - Calculation Of Carrying Costs Per ERC Per Month

The form may be obtained from the Commission's Division of Water and Wastewater, 101 East Gaines Street, Tallahassee, Florida 32399-0850.

(p) The revised or original tariff sheets necessary to incorporate the AFPI charge into the tariff.

(4) The beginning date for accruing the AFPI charge shall agree with the month following the end of the test year that was used to establish the amount of non-used and useful plant. If any connections have been made between the beginning date and the effective date of the charge, no AFPI will be collected from those connections.

(5) Unless proven otherwise, it is prudent for a utility to have an investment in future use plant for a period of no longer than 5 years beyond the test year unless there is competent substantial evidence presented by the utility demonstrating that the 5-year period is inappropriate.

(6) For utilities that have non-used and useful plant to be held for periods longer than what is determined to be prudent, the AFPI charge will cease accruing charges and will remain constant after the accrual period, established by the Commission, has expired. The utility can continue to collect the constant charge until all ERCs projected in the calculation have been added.

Specific Authority: 367.121, F.S.

Law Implemented: 367.121, F.S.

History: New.

**25-30.435 Application for a Rate Increase by an Applicant that Owns Multiple Systems.** This section applies to any applicant filing under Chapters 367.081 or 367.082, F.S., that owns more than one regulated system, either water or wastewater, regardless of county boundaries. This section does not apply to an applicant filing under Chapter 367.0814.

(1) The applicant shall include and file the required information on all jurisdictional systems owned in the application for a rate increase regardless of whether or not the applicant is seeking a rate increase for all systems.

(2) The determination of the need for a rate increase shall be made based upon the total earnings of all jurisdictional water and wastewater systems owned by the applicant.

(3) After an applicant has filed an application under this rule, any need for a rate decrease shall be based on the total earnings of all jurisdictional systems owned by the applicant.

(4) The applicant shall file sufficient data for non-jurisdictional systems to demonstrate that the allocation of joint and common costs to the jurisdictional systems is appropriate.

(5) One capital structure shall be used and is to be calculated based on all jurisdictional and nonjurisdictional systems.

(6) A waiver of the provisions in this rule may be granted by the Commission for good cause shown.

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, F.S.

History: New.

**ALTERNATE RULE**

**25-30.435 Annual Establishment of Allocations For Utilities With Multiple Systems.** This rule applies to any utility that owns more than one regulated water or wastewater system. Any utility with multiple systems that does not intend to file for a rate increase in the subsequent 12-month period shall file a statement to that effect each year before March 31. Any utility with multiple systems that has no allocated costs shall file a statement to that effect each year before March 31. The following subsections apply to a utility with multiple systems that has allocated costs and that intends to file for a rate increase in the subsequent 12-month period.

(1) Each utility shall file no later than March 31 of each year schedules that show the following information:

(a) The total costs being allocated prior to any allocation as well as the source of the allocation.

(b) A detailed description of the costs being allocated.

(c) The allocation method used and the basis for using that method.

(2) The Commission shall, before July 1 of each year, hold an evidentiary hearing pursuant to section 120.57, F.S., to:

(a) Determine the prudency of the total costs filed pursuant to (1)(a) above;

(b) Establish the appropriate method for allocating the prudent costs; and,

(c) Establish the specific amount of total cost to be allocated to each system.

(3) In any rate proceeding involving utilities with multiple systems, only those allocated costs established by the Commission pursuant to this rule shall be allowed.

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, F.S.

History: New.

**25‑30.436 General Information and Instructions Required of Class A and B Water and Wastewater ~~Sewer~~ Utilities in an Application for Rate Increase.**

(1) Each applicant for a rate increase shall provide the following general information to the Commission:

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

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

(c) The number of the Commission order, if any, which previously considered the applicant's rates for the system(s) involved.

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

(e) Where the utility requests rates which generate less than a fair rate of return, it must provide a statement of assurance that its quality of service will not suffer.

(f) An affidavit signed by an officer of the utility that states that the utility will comply with Rule 25-22.0407 ~~25-22.0406~~, F.A.C.

(g) A statement ~~as to~~ whether the applicant requests to have the case processed using the proposed agency action procedure outlined in section 367.081(8), F.S. ~~1989.~~

(2) The applicant's petition for rate relief will not be deemed filed until the appropriate filing fee has been paid and all minimum filing requirements have been met.~~,~~ ~~including~~ If the applicant has not filed its petition pursuant to section 367.081(8), F.S., applicant's prepared direct testimony~~,~~ ~~where appropriate~~ shall be filed with the minimum filing requirements. At a minimum, the direct testimony shall explain why the rate increase is necessary and adress those areas anticipated at the time of filing to be at issue.

(3) The applicant shall state any known deviation from the policies, procedures and guidelines prescribed by the Commission in relevant rules or in the company's last rate case.

(4) In the rate case application:

(a) Each schedule shall be cross‑referenced to identify related schedules as either supporting schedules ~~and/~~or recap schedules.

(b) Each page of the filing shall be consecutively numbered on 8 1/2 x 11-inch paper.

(c) Except for handwritten official company records, all data in the petition, exhibits and minimum filing requirements shall be typed.

(d) Sixteen copies shall ~~are required to~~ be filed with the Commission's ~~directly with the~~ Division of Records and Reporting, except as specifically identified in Rule 25‑30.437, 25-30.439 or 25‑30.440, F.A.C.

(e) Whenever the applicant proposes any corrections, updates or other changes to the originally filed data, 20 ~~twenty (20)~~ copies shall be filed with the Division of Records and Reporting with copies also served on all parties of record at the same time.

(f) If the capital structure contains zero or negative equity, a return on equity shall be requested, which shall be the maximum of the return of the current equity leverage formula established by order of this Commission pursuant to section 367.081(4), F.S.

(g) The provisions of Rules 25-30.432 and 25-30.433 shall be followed in preparing the utility's application.

(h) Any system that has costs allocated to it from any source in addition to those costs reported on Schedule B-12 of Commission Form PSC/WAS 17 (as described in Rule 25-30.437) shall file additional schedules that show the following information:

1. The total costs being allocated prior to any allocation as well as the source of the allocation.

2. A detailed description of the costs being allocated.

3. The allocation method used and the bases for using that method.

(i) The utility shall file copies of the documents that demonstrate that the utility owns the land upon which the utility treatment facilities are located, or that provides for the continued use of the land, such as a 99-year lease.

(5) Commission Designee. The Director of the Division of Water and Wastewater ~~Sewer~~ shall be the designee of the Commission for purposes of determining whether the applicant has met the minimum filing requirements imposed by this rule.

(6) Waiver of MFR Requirements. The Commission may grant a waiver with respect to specific data required by this rule upon a showing that the production of the data would be impractical or impose an excessive economic burden upon the applicant. All requests for waiver of specific portions of the minimum filing requirements shall be made as early as practicable.

(7) Within 60 days after the issuance of a final order entered in response to an application for increased rates, or, if applicable, within 60 days after the issuance of an order entered in response to a motion for reconsideration of the final order, each utility shall submit a breakdown of actual rate case expense incurred, in total, in a manner consistent with Schedule No. B-10 (PSC/WAS Form 17, as described in Section 25-30.437). If the deadline prescribed above cannot be met, an extension may be granted by the Director of the Division of Water and Wastewater for good cause shown.

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, F.S.

History: New 11/9/86, Amended 6/25/90, .

**25-30.437 Financial, Rate and Engineering Information Required of Class A and B Water and Wastewater ~~Sewer~~ Utilities in an Application for Rate Increase.** Each applicant for a rate increase shall provide the information required by Commission Form PSC/WAS 17 (6/90), entitled "Financial, Rate and Engineering Minimum Filing Requirements - Class A and B Utilities" which is incorporated into this rule by reference. The form may be obtained from the Director, Division of Water and ~~Sewer~~ Wastewater, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399-0850~~0873~~. In compiling the required schedules, additional instructions are set forth below:

(1) Each section of this form shall be indexed and tabbed, including a table of contents listing the page numbers of each schedule.

(2) If information requested in the form described above is not applicable to the applicant, so state and provide an explanation of the specific schedule.

(3) If a projected test year is used, provide a complete set of the Commission Form PSC/WAS 17 (6/90), entitled "Financial, Rate and Engineering Minimum Filing Requirements - Class A and B Utilities" (as described above) which require a designation of historical or projected information. Such schedules shall be submitted for the historical base year, and any year subsequent to the base year and prior to the projected test year, in addition to the projected test year. If no designation is shown on a schedule, submit that schedule for the test year only. In lieu of providing separate pages for the above required schedules, the information required can be combined on the same page by adding additional columns. In the rate base schedules, Section A, the beginning and end of year balances shall be shown. For any intermediate period or year, only the year-end balance shall be shown. ~~If a historical test year is used, Schedule E-13 will not be required.~~ A schedule shall ~~should~~ also be included which describes in detail all methods and bases of projection, explaining the justification for each method or basis employed. If an historical test year is used, Schedule E-13 is not required.

(4) Only two ~~2~~ copies of Schedule E-14, entitled Billing Analysis Schedules, shall be filed with the application. Each copy shall be submitted in a separate binder from the other required information.

(5) If a petition for interim rates if filed, a utility shall demonstrate that it is earning outside the range of reasonableness on rate of return calculated in accordance with section ~~Chapter~~ 367.082(5), Florida Statutes. In doing such, the utility shall submit schedules of rate base, cost of capital and net operating income on an historical basis, with schedules of all adjustments thereto, consistent with Commission Form PSC/WAS 17 (6/90), (described above).

(6) If a utility is requesting uniform rates for any systems that are not already combined in a uniform rate, the information required by this rule shall be submitted on a separate basis for each system that has not already been combined in a uniform rate. Those systems already combined in a uniform rate shall be considered as a single system when submitting the required information. The following schedules of Form PSC/WAS 17 (6/90), described above, at a minimum, shall be filed on a combined basis for all systems included in the filing: A-1, A-2, A-3, A-17, B-1, B-2, B-3, B-5, B-6, B-13, B-14, B-15, plus all "C", "D" and "E" Schedules (no "F" Schedules are required).

(7) In proposing rates, the utility shall use the base facility and usage charge rate structure, unless an alternative rate structure is adequately supported by the applicant. The base facility charge incorporates fixed expenses of the utility and is a flat monthly charge. This charge is applicable as long as a person is a customer of the utility, regardless of whether there is any usage. The usage charge incorporates variable utility expenses and is billed on a per 1,000 gallon or 100 cubic feet basis in addition to the base facility charge. The rates are first established with the 5/8 " x 3/4" meter as the foundation. For meter sizes larger than 5/8", the base facility charge shall be based on the usage characteristics.

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, F.S.

History: New 6/10/75, Amended 10/16/77, 3/26/81, Transferred from 25-10.176 and Amended 11/9/86, Amended 6/25/90, .

**25-30.4385 Additional Rate Information Required in Application for Rate Increase.** The utility shall file an original and three copies of all revised tariff sheets for each service classification in which any change is proposed, except those tariff sheets in which the only change is to the service rates.

Specific Authority: 367.121,F.S.

Law Implemented: 367.081, F.S.

History: New.

**~~25‑30.441 Engineering Information Required in Application for Rate Increase by Utilities Seeking to Recover the Cost of Investment for Plant Construction Required by Governmental Authority.~~** ~~If an applicant proposes to include in its plant investment the cost of investment in property required by a "duly authorized governmental authority" pursuant to s. 367.081(2), F.S. (1980 Supp.), the applicant shall provide the following engineering information to the Commission:~~

~~(1) A copy of the order or directive of the agency which required the applicant to improve a particular service.~~

~~(2) An estimate by an independent engineer, establishing the cost of the applicant's compliance with the regulatory order or directive and the period of time required for completion of construction.~~

~~(3) An analysis showing that portion of the proposed rate increase which relates to the financial support required for the improvement.~~

~~(4) A recent statement from a registered professional engineer that the approved plan, when executed, will not unreasonably exceed the system's need to meet the requirements for improvements in capacity or costs.~~

~~(5) A copy of the order or directive of the agency which will not unreasonably exceed either the requirements imposed upon the system for improvements in capacity, or costs.~~

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, F.S.

History: New 11/9/86, Repealed .

**25-30.4415 Additional Information Required in Application for Rate Increase by Utilities Seeking to Recover the Cost of Investment in the Public Interest.** If an applicant proposes to include in its plant investment the cost of investment made in the public interest pursuant to section 367.081(2), F.S., which investment was or will be required by agency rule, regulation, order or other regulatory directive, the applicant shall provide the following information to the Commission:

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

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

(3) An analysis showing the portion of the proposed rate increase that relates to the financial support for the investment or improvement.

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, F.S.

History: New .

**25‑30.443 Minimum Filing Requirements for Class C Water and Wastewater ~~Sewer~~ Utilities.**

(1) A Class C Utility seeking a rate increase shall submit an application which contains the information required by Rules 25‑30.436; 25‑30.440; 25-30.4415 ~~25‑30.441~~; and 25‑30.442.

(2) Each Class C Utility seeking a rate increase shall also provide the information required by Commission Form PSC/WAS 18

(6/90), entitled "Financial, Rate and Engineering Minimum Filing Requirements ‑ Class C Utilities" which is incorporated into this rule by reference. The form may be obtained from the Director, Division of Water and Wastewater ~~Sewer~~, Florida Public Service Commission, 101 E. Gaines Street, Tallahassee, Florida 32399‑0850~~0873~~. In compiling the required schedules, additional instructions are set forth below:

(a) Each section of this form shall be indexed and tabbed, including a table of contents listing the page numbers of each schedule.

(b) If information requested in the form described above is not applicable to the applicant, so state and provide an explanation on the specific schedule.

(c) If a projected test year is used, provide a complete set of the Commission Form PSC/WAS 18 (6/90), entitled "Financial, Rate and Engineering Minimum Filing Requirements ‑ Class C Utilities" (as described above) which require a designation of historical or projected information. Such schedules shall be submitted for the historical base year,and any projected year subsequent to the base year and prior to the projected test year, in addition to the projected year. If no designation is shown on a schedule, submit that schedule for the test year only. If a historical test year is used, Schedule E‑5 will not be required. A schedule shall ~~should~~ also be included which describes in detail all methods and bases of projection, explaining the justification for each method or basis employed.

(d) Only two ~~2~~ copies of Schedule E‑6, entitled Billing Analysis Schedules shall be filed with the application. Each copy shall be submitted in a separate binder from the other required information.

(e) In designing rates, the base facility and usage charge rate structure shall be utilized for metered service.

(3) Within 60 days after the issuance of a final order entered in response to an application for increased rates, or, if applicable, within 60 days after the issuance of an order entered in response to a motion for reconsideration of such final order, each utility shall submit a breakdown of actual rate case expense incurred, in total, in a manner consistent with Schedule No. B-10 (PSC/WAS Form 17, as described in Section 25-30.437). If this deadline cannot be met, an extension may be granted by the Director of the Division of Water and Wastewater for good cause shown.

(4) If a petition for interim rates is filed, a utility shall demonstrate that it is earning outside the range of reasonableness on rate of return calculated in accordance with section 367.082(5), F.S. To demonstrate this, the utility shall submit schedules of rate base, cost of capital and net operating income on an historical basis, with schedules of all adjustments thereto, consistent with Commission Form PSC/WAS 18 (6/90), described above.

(5) If a utility is requesting uniform rates for systems that are not already combined in a uniform rate, the information required by this rule must be submitted on a separate basis for each system that has not already been combined in a uniform rate. For those systems already combined in a uniform rate, the utility should submit the required information as a single system. At a minimum, the following schedules of Form PSC/WAS 18 (6/90), described above, shall be filed on a combined basis for all systems included in the filing: A-1, A-2, A-3, A-16, B-1, B-2, B-3, B-4, B-5, B-10, B-11, B-12, plus all "C", "D" and "E" schedules (no "F" schedules are required).

Specific Authority: 367.121, F.S.

Law Implemented: 367.081, F.S.

History: New 6/25/90, Amended .

**25‑30.455 Staff Assistance in Rate Cases.**

(1) Water and wastewater u~~U~~tilities whose ~~with~~ total gross annual operating revenues are ~~of~~ $150,000 or less for ~~each~~ water service or $150,000 or less for wastewater service, ~~provided~~ or $300,000 or less ~~where the services are combined~~ on a combined basis, may petition the Commission for staff assistance in rate ~~filings~~ applications by submitting a completed staff assisted rate case application. In accordance with section 367.0814(4), F.S., a utility that requests staff assistance waives its right to appeal, and agrees to accept the final rates and charges approved by the Commission unless the final rates and charges would produce less revenue than the existing rates and charges. If a utility that chooses to utilize the staff assistance option employs outside experts to assist in developing information for staff or to assist in evaluating staff's schedules and conclusions, the reasonable and prudent expense will be recoverable through the rates developed by staff. A utility that chooses not to exercise the option of staff assistance may file for a rate increase under the provisions of Rule 25-30.443, F.A.C.

(2) Upon request, the Division of Water and ~~Sewer~~ Wastewater shall provide the potential applicant with the appropriate application form, Commission Form ~~(~~PSC/WAS 2 (Rev. 11/86)~~)~~, "Application for Staff Assisted Rate Case", which is incorporated by reference in this rule, and a copy of Rule 25-30.455, F.A.C., governing staff assisted rate cases. The form may be obtained from the Commission's Division of Water and Wastewater ~~Sewer~~, 101 East Gaines Street, Tallahassee, Florida 32399-0850~~8153~~.

(3) Upon completion of the form, the petitioner may return it to the Director of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399‑0870~~8153~~.

(4) Upon receipt of a completed application, the Director of Records and Reporting shall acknowledge its ~~such~~ receipt, assign a docket number for identification, and shall forward the application to a committee comprised of one member each of the Commission's Divisions of Water and Wastewater ~~Sewer~~, Auditing and Financial Analysis, and Legal Services.

(5) Within 30 days of receipt of the completed application, the committee shall evaluate the application and determine the petitioner's eligibility for staff assistance.

(a) If the Commission has received four or more applications in the previous 30 ~~thirty (30)~~ days; or, if the Commission has 20 ~~twenty (20)~~ or more docketed s~~S~~taff a~~A~~ssisted r~~R~~ate c~~C~~ases in active status on the date the application is received, the Commission shall deny initial evaluation of an application for staff assistance and close the docket. When an application is denied under the provisions of this subsection, the applicant shall be notified of the date on which the application may be resubmitted.

(b) Initially, determinations of eligibility may be conditional, pending an actual examination of the condition of petitioner's books and records. After an initial determination of eligibility, the Division of Auditing and Financial Analysis committee shall examine the books and records of the utility before making a final determination of eligibility.

(c) All recommendations of in~~non~~eligibility shall be in writing and shall state the ~~indicate~~ deficiencies in the application with reference to guidelines set out in subsection (8) of this rule or with reference to subsection (11) of this rule.

(6) Upon reaching a decision to officially accept the application, the Division of Water and Wastewater ~~Sewer~~ shall notify the petitioner by letter and initiate staff assistance. Upon reaching a decision to deny the petition, the Division of Water and Wastewater ~~Sewer~~ shall notify the Chairman of the Commission. The Chairman shall make the determination with regard to the petition and shall notify the petitioner if the application has been denied.

(7) The official date of filing will be 30 days after the date of the letter notifying the applicant of the official acceptance of the application by the Commission.

(8) In arriving at a recommendation whether to grant or deny the petition, the following shall be considered:

(a) Whether the petitioner qualifies for staff assistance pursuant to subsection (1) of this rule;

(b) Whether the petitioner's books and records are organized consistent with Rule 25‑30.110, F.A.C., so as to allow commission personnel to verify costs and other relevant factors within the 30‑day time frame set out in this rule;

(c) Whether the petitioner has filed annual reports;

(d) Whether the petitioner has paid applicable regulatory assessment fees;

(e) Whether the petitioner has at least 1 ~~one~~ year's actual experience in utility operation;

(f) Whether the petitioner has filed additional relevant information in support of eligibility, together with reasons why the information should be considered;

(g) Whether the petitioner has complied in a timely manner with all Commission decisions and requests affecting water and wastewater utilities for 2-~~two~~ years prior to the filing of the application under review;

(h) Whether the utility has applied for a staff assisted rate case within the 2-~~two~~ year period prior to the receipt of the application under review.

(9) The Commission will deny the application if a utility does not remit the fee~~,~~ as provided by section 367.145, Florida Statutes, and Rule 30.020(2)(f), F.A.C., within 30 days after official acceptance.

(10) An aggrieved petitioner may request reconsideration which shall be decided by the Chairman.

(11) A petitioner may request a waiver of any of the guidelines set out in subsection (8) of this rule.

(12) A substantially affected person may file a petition to protest the Commission's proposed agency action in a staff assisted rate case within 21 days of issuance of the Notice of Proposed Agency Action as set forth in Rule 25-22.036, F.A.C.

(13) In the event of a protest of the Commission's Notice of Proposed Agency Action (PAA Order) in a staff assisted rate case, the utility has the burden of proof in the case. The utility shall:

(a) Provide prefiled direct testimony in accordance with the procedural order in the case. At a minimum, that testimony shall adopt the Commission's PAA Order in the case;

(b) Sponsor a witness to support source documentation provided to the Commission staff in its preparation of the staff audit, the staff engineering and accounting report and the staff PAA recommendation in the case;

(c) Include in its testimony the necessary factual information to support its position on any issue that it chooses to take a position different than that contained in the Commission's PAA Order;

(d) Meet all other requirements of the order establishing procedures.

(14) Failure to comply with the dates established in the procedural order, or to file timely a request for extension of time for good cause shown, may result in dismissal of the staff assisted rate case and closure of the docket.

(15) In the event of a protest of the Commission's PAA Order in a staff assisted rate case the Commission staff shall:

(a) File prefiled direct testimony to explain its analysis in the PAA recommendation. In the event the staff wishes to alter its PAA position on any issue, it shall provide factual testimony to support its changed position.

(b) Meet all other requirements of the order establishing procedures;

(c) Provide to the utility materials to assist the utility in the preparation of its testimony and exhibits. This material shall consist of an example of testimony filed by a utility in another case, an example of testimony that would support the PAA Order in this case, an example of an exhibit filed in another case, and examples of prehearing statements and briefs filed in other cases.

Specific Authority: 367.121, 120.54, F.S.

Law Implemented 367.0814, 120.53, F.S.

History: New 12/8/80, Transferred from 25‑10.180 and Amended 11/9/86, 8/26/91, .

**25‑30.456 Staff Assistance in Alternative Rate Setting.**

(1) As an alternative to a staff assisted rate case as described in Rule 25-30.455, F.A.C., water and wastewater utilities whose total gross annual operating revenues are $150,000 or less for water service or $150,000 or less for wastewater service, or $300,000 or less on a combined basis, may petition the Commission for staff assistance in alternative rate setting by submitting a completed staff assisted application for alternative rate setting.

(2) Upon request, the Division of Water and Wastewater shall provide the potential applicant with the application form, PSC/WAS 17 ( /), titled "Application for Staff Assisted Alternative Rate Setting" which is incorporated by reference in this rule, and a copy of the rules governing Staff Assistance in Alternative Rate Setting. The form may be obtained from the Commission's Division of Water and Wastewater, 101 East Gaines Street, Tallahassee, Florida 32399-0850.

(3) Upon completion of the form, the applicant may return it to the Director of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399‑0870.

(4) Upon receipt of an application, the Director of Records and Reporting shall acknowledge its receipt, assign a docket number for identification, and shall forward the application to the Commission's Division of Water and Wastewater.

(5) Within 30 days of receipt of the completed application, the Division of Water and Wastewater shall evaluate the application and determine the petitioner's eligibility for staff assistance.

(a) If the Commission has received four or more alternative rate setting applications in the previous 30 days; or, if the Commission has 20 or more docketed staff assisted rate cases in active status on the date the application is received, the Commission shall deny initial evaluation of an application for staff assistance and close the docket. When an application is denied under the provisions of this subsection, the applicant shall be notified of the date on which the application may be resubmitted.

(b) Determinations of eligibility may be conditional, pending an actual examination of the condition of petitioner's books and records.

(c) All recommendations of ineligibility shall be in writing and shall state the deficiencies in the application with reference to guidelines set out in subsection (8) of this rule or with reference to subsection (11) of this rule.

(6) Upon reaching a decision to officially accept the application, the Division of Water and Wastewater shall notify the applicant by letter and initiate staff assistance. Upon reaching a decision to deny the application, the Division of Water and Wastewater shall notify the Chairman of the Commission. The Chairman shall make the determination with regard to the application and shall notify the applicant if the application has been denied.

(7) The official date of filing will be 30 days after official acceptance of the application by the Commission.

(8) In deciding whether to grant or deny the application, the following shall be considered:

(a) Whether the applicant qualifies for staff assistance pursuant to subsection (1) of this rule;

(b) Whether the applicant has filed annual reports;

(c) Whether the applicant has paid applicable regulatory assessment fees;

(d) Whether the applicant has at least 1 year's actual experience in utility operation;

(e) Whether the applicant has filed additional relevant information in support of eligibility, together with reasons why the information should be considered;

(f) Whether the applicant has made a good faith effort in a timely manner to comply with all Commission decisions and requests affecting water and wastewater utilities for 2-years prior to the filing of the application under review;

(g) Whether the utility has been granted a staff assisted rate case or alternative rate setting within the 2-year period prior to the receipt of the application under review.

(9) The Commission shall deny the application if a utility does not remit the fee, as provided by section 367.145, F.S., and Rule 25-30.020(2)(f), F.A.C., within 30 days after official acceptance.

(10) An aggrieved applicant may request reconsideration which shall be decided by the Chairman.

(11) An applicant may request a waiver of any of the guidelines set out in subsection (8) of this rule.

(12) The Commission shall, for the purposes of determining the amount of rate increase, if any, compare the operation and maintenance expenses (O & M) of the utility to test year operating revenues. The Commission shall consider an allowance for return on working capital using the one-eighth of O & M formula approach.

(13) The Commission shall limit the maximum increase in operating revenues to 50 percent of test year operating revenues.

(14) The Commission shall vote on a proposed agency action (PAA) recommendation establishing rates no later than 90 days from the official filing date as established in Rule 25-30.455(7), F.A.C.

(15) A substantially affected person may file a petition to protest the Commission's PAA Order regarding a staff assisted alternative rate setting application within 21 days of issuance of the Notice of Proposed Agency Action as set forth in Rule 25-22.036, F.A.C.

(16) In the event of protest of the PAA Order by a substantially affected party, the rates established in the PAA Order may be implemented on a temporary basis. At that time the utility may elect to pursue rates set pursuant to the rate base determination provisions of Rule 25-30.455, F.A.C.

(17) In the event of a protest the maximum increase established in (13) above shall no longer apply.

(18) In the event of a protest of the Commission's PAA Order in a staff assisted alternative rate setting application, the utility has the burden of proof in the case. The utility shall:

(a) Provide prefiled direct testimony in accordance with the procedural order in the case. At a minimum, that testimony shall adopt the Commission's PAA Order in the case;

(b) Sponsor a witness to support source documentation provided to the Commission staff in its preparation of the staff engineering and accounting analysis and the staff PAA recommendation in the case;

(c) Include in its testimony the necessary factual information to support its position on any issue that it chooses to take a position different than that contained in the Commission's PAA Order;

(d) Meet all other requirements of the order establishing procedures.

(19) Failure to comply with the dates established in the procedural order, or to timely file a request for extension of time for good cause shown, may result in dismissal of the staff assisted alternative rate setting application and closure of the docket.

(20) In the event of protest of the Commission's PAA Order in a staff assisted alternative rate setting application the Commission staff shall:

(a) File prefiled direct testimony to explain its analysis in the PAA recommendation. In the event the staff wishes to alter its PAA position on any issue it shall provide factual testimony to support its changed position.

(b) Meet all other requirements of the order establishing procedures;

(c) Provide to the utility materials to assist the utility in the preparation of its testimony and exhibits. This material shall consist of an example of testimony filed by a utility in another case, a sample of testimony that would support the PAA Order in this case, an example of an exhibit filed in another case, and examples of prehearing statements and briefs filed in other cases.

Specific Authority: 367.121, 120.54, F.S.

Law Implemented 367.0814, 120.53, F.S.

History: New 12/8/80, Transferred from 25‑10.180 and Amended 11/9/86, 8/26/91, .

**25-30.460 Application for Miscellaneous Service Charges**.

(1) All water and wastewater utilities may apply for miscellaneous service charges. These charges shall be included in each company's tariff and include rates for initial connections, normal reconnections, violation reconnections, and premises visit charges.

(a) Initial connection charges are levied for service initiation at a location where service did not exist previously. (b) Normal reconnection charges are levied for transfer of service to a new customer account at a previously served location, or reconnection of service subsequent to a customer requested disconnection.

(c) Violation reconnection is a charge that is levied prior to reconnection of an existing customer after discontinuance of service for cause according to Rule 25-30.320(2), F.A.C., including a delinquency in bill payment. Violation reconnection charges are at the tariffed rate for water and actual cost for wastewater.

(d) Premises Visit Charge is levied when a service representative visits a premises at the customer's request for complaint resolution and the problem is found to be the customer's responsibility.

(e) Premises Visit Charge (in lieu of disconnection) is levied when a service representative visits a premises for the purpose of discontinuing service for nonpayment of a due and collectible bill and does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.

(2) A utility may request an additional charge ("after hours charge") for overtime when the customer requests that the service be performed after normal hours. The after hours charge may be at the same rate specified for the existing charge during normal working hours. If the utility seeks a charge other than the normal working hours charge, the utility must file cost support.

Specific Authority: 367.121, F.S.

Law Implemented: 367.121, F.S.

History: New.

**25-30.465 Private Fire Protection Rates.** The rate for private fire protection service shall be a charge based on the size of the connection rather than the number of fixtures connected. The rate shall be one-third the current base facility charge of the utility's meter sizes, unless otherwise supported by the utility.

Specific Authority: 367.121, F.S.

Law Implemented: 367.121, F.S.

History: New.

**25-30.470 Calculation of Rate Reduction After Rate Case Expense is Amortized.** To calculate the rate reduction to be made 4 years after a rate case as required by section 367.0816, F.S., the following methodology shall be used. The annual amount of rate case expense, which is equal to one-fourth of the total allowed rate case expense, shall be divided by the regulatory assessment fee gross up factor. The resulting number shall then be divided by the revenue requirement to determine the percentage of the rate reduction. The percentage is then multiplied against the new rates to determine the amount of the future rate reduction. Revised tariff sheets implementing the reduction shall be filed no later than 1 month before the end of the fourth year.

Specific Authority: 367.121, F.S.

Law Implemented: 367.121, F.S.

History: New.

**25-30.475 Effective Date of Approved Tariffs.** Effective dates shall be as follows unless otherwise authorized by the Commission:

(1) For recurring rates or charges:

(a) Metered or flat recurring rates shall be effective for service rendered as of the stamped approval date on the tariff sheets provided customers have received notice. The tariff sheets will be approved upon staff's verification that the tariffs are consistent with the Commission's decision, that the proposed customer notice is adequate, and that any required security has been provided.

(b) If the effective date of the new rates falls within a regular billing cycle, the initial bills at the new rate may be prorated. The old charge shall be prorated based on the number of days in the billing cycle ~~on and~~ before the effective date of the new rates. The new charge shall be prorated based on the number of days in the billing cycle on or after the effective date of the new rates.

(c) In no event shall the rates be effective for service rendered prior to the stamped approval date.

(2) Non-recurring charges (such as service availability, guaranteed revenue charges, allowance for funds prudently invested, miscellaneous services) shall be effective for service rendered or connections made on or after the stamped approval date on the tariff sheets provided customers have received notice. The tariff sheets will be approved upon staff's verification that the tariffs are consistent with the Commission's decision and that the proposed customer notice is adequate. In no event shall the rates be effective for service rendered prior to the stamped approval date.

Specific Authority: 367.121, F.S.

Law Implemented: 367.121, F.S.

History: New.

**25‑30.515 Definitions.** When used in this part or in service availability policies or in service availability contracts or agreements, the following terms have the following meanings:

(1) Active Connection means a connection to the utility's system at the point of delivery of service, whether or not service is currently being provided.

(2) Customer Connection Charge means any payment made to the utility for the cost of installing a connection from the utility's water or wastewater ~~sewer~~ lines, including but not limited to the cost of piping and the meter installation fee.

(3) Contribution‑in‑aid‑of‑construction (CIAC) means any amount or item of money, services, or property received by a utility, from any person or governmental agency, any portion of which is provided at no cost to the utility, which represents an addition or transfer to the capital of the utility, and which is utilized to offset the acquisition, improvement, or construction costs of the utility's property, facilities, or equipment used to provide utility services to the public. The term includes, but is not limited to, system capacity charges, main extension charges and customer connection charges.

(4) Contributor means a person, builder, developer or other entity who makes a contribution‑in‑aid‑of‑construction.

(5) Customer Installation means all the facilities on the customer's side of the point of delivery.

(6) Developer's Agreement means a written agreement setting forth in detail the terms and conditions under which a utility will render service to a developer's property.

(7) Economic Feasibility means a test by which the operating income of a utility to be earned from prospective customers within the area to be served by a proposed extension of facilities is divided by the investment in such facilities to determine if the utility will earn a fair return on its investment in the proposed extension.

(8) Equivalent Residential Connection (ERC) means

(a) 350 gallons per day;

(b) The number of gallons a utility demonstrates is the average daily flow for a single residential unit; or

(c) The number of gallons which has been approved by the Department of Environmental Regulation for a single residential unit.

(9) Guaranteed Revenue Charge ~~Agreement~~ means ~~a written agreement by which an applicant agrees to pay~~ a charge designed to cover the utility's costs including, but not limited to the cost of operation, maintenance, depreciation, and any taxes, and to provide a reasonable return to the utility~~,~~ for facilities ~~that are subject to the agreement~~, a portion of which may not be used and useful to the utility or its existing customers. Guaranteed Revenues are designed to help the utility recover a portion of its cost from the time capacity is reserved until a customer begins to pay monthly service rates.

(10) Hydraulic Share means the pro rata share of the capabilities of the utility's facilities to be made available for service to the contributor. The pro rate share is multiplied by the unit cost (per gallon) of providing the facilities to determine the proportional share of the cost thereof to be borne by the contributor.

(11) Inspection Fee means either the actual or the average cost to the utility of inspecting, or having inspected, the facilities constructed by a contributor or by an independent contractor for connection to the facilities of the utility.

(12) Main Extension Charge means a charge made by the utility for the purpose of covering all or part of the utility's capital costs in extending its off‑site water or sewer facilities to provide service to specified property. The charge is determined on the "hydraulic share" basis or other acceptable method reasonably related to the cost of providing the service.

(13) Meter Installation Fee means the amount authorized by the Commission which is designed to recover the cost of installing the water measuring device at the point of delivery including materials and labor required.

(14) Off‑Site Facilities means either the water transmission mains and facilities or the sewage collection trunk mains and facilities, or the sewage collection trunk mains and facilities, including, but not limited to, manholes, sewage force mains and sewage pumping stations, the purpose of which is either to provide water service to properties within the service territory of the service utility or to collect sewage received from properties within the territory.

(15) On‑Site Facilities means the portion of the water distribution system or the sewage collection and treatment system that has been, or is to be, located wholly within the property to which service is to be extended. If off‑site facilities cross the property of the customer via an easement, the on‑site facilities shall mean the water distribution system or the sewage collection system that is located on the customer's property, exclusive of the off‑site facilities.

(16) Refundable Advance means money paid or property transferred to a utility by the applicant for the installation of facilities which may not be used and useful for a period of time. The advance is made so that the proposed extension may be rendered economically feasible. The advance is returned to the applicant over a specified period of time in accordance with a written agreement as additional users connect to the system.

(17) Service Availability Policy means the section of the utility's tariff which sets forth a uniform method of determining the system capacity charge or other charges to be paid and conditions to be met, by applicants for service in order to obtain water or sewer service.

(18) Special Service Availability Contract means an agreement for charges for the extension of service which is not provided for in the utility's service availability policy.

(19) System Capacity Charge means the charge made by a utility for each new connection to the system which charge is designed to defray a portion of the cost of the utility system.

(20) Treatment Facilities means the facilities used for the production and treatment of water or for the treatment and disposal of sewage.

(21) Plant Capacity Charge means a charge made by the utility for the purpose of covering all or part of the utility's capital costs in construction or expansion of treatment facilities.

Specific Authority: 367.121(1), 367.101, F.S.

Law Implemented: 367.101, F.S.

History: New 6/14/83.

**25‑30.565 Application for Approval of ~~a~~ New or Revised Service Availability Policy or ~~Modification of Service Availability~~ Charges.**

(1) Each application for a service availability policy or charges shall be filed in original and 12 ~~15~~ copies.

(2) Upon filing an application for a new or revised service availability charge or policy, the utility shall provide notice pursuant to Rule 25-22.0408.

~~(2) Within twenty days prior to or simultaneously with the filing of an application the utility shall begin providing notice. The notice shall be given:~~

~~(a) To all existing customers (may be included with regular billing for water and/or sewer service); and~~

~~(b) By publishing an advertisement once each week, for 3 consecutive weeks, in a newspaper of general circulation in the service area involved; and~~

~~(c) By certified mail or personal delivery to the governing body of the county in which the system is located within a 4-mile radius, area planning agencies designated pursuant to the Clean Water Act, 33 USC 1288(2) Chapter 758, Title II, section 308 P.L. 92-500, P.L. 95-217, the public counsel, and the Commission; and~~

~~(d) By certified mail or personal delivery to anyone who has filed a written request or who has received a written estimate for service within the past 12 months.~~

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

~~(3) The notice shall contain:~~

~~(a) A statement that the utility has applied for a change in its service availability policy; and~~

~~(b) A statement that the requested service availability fee increase is to pay for growth in the utility system and the requested increased fees are to be paid by new, and not existing customers; and~~

~~(c) The location within the service territory where copies of the application are available for inspection; and~~

~~(d) A comparison of the present and proposed policy and charges; and~~

~~(e) A statement that any comments concerning the policy changes should be addressed to the Director of Records and Reporting at 101 East Gaines Street, Tallahassee, Florida 32301-8153 (904-488-8371); and~~

~~(f) The utility's address, telephone number, and business hours.~~

(4) Each application shall include the following, if applicable:

(a) A statement describing ~~indicating~~ how the notice provisions have been complied with, including a copy of the actual notice(s).

(b) The name of the applicant, the applicant's principal place of business and each local office from which company operations are conducted. The applicant's name shall be as it appears on the certificate issued by the Commission if one has been issued.

(c) The number of the Commission order, if any, which previously considered the charges or service availability policy for the system involved.

(d) A statement explaining the basis for the requested changes in charges and conditions.

(e) A schedule showing the original cost of any existing treatment plants, the water transmission and distribution system, and the sewage collection system, by ~~N.A.R.U.C.~~ Uniform System of Accounting account numbers as required by Rule 25‑30.115, F.A.C., and the related capacity of each system as of 90 days prior to application.

(f) A detailed statement of accumulated depreciation for the plant listed in (e) above as of 90 days prior to application.

(g) A schedule showing the number of active customers on line 90 days prior to the time of application by meter size, by customer class, and the related equivalent residential connections (ERC) as defined in Rule 25‑30.515(8). Describe the method by which an ERC is defined.

(h) A detailed statement defining the capacity of the treatment facilities in terms of ERCs as used in developing the proposed service availability charges.

(i) A detailed statement defining the capacity of the distribution or collection system in terms of ERCs as used in developing the proposed service availability charges.

(j) Provide a list of outstanding developer agreements.

(k) For each developer agreement state ~~indicate~~ whether the agreement is designed to result in contributed property, other than the approved system capacity charge, within the next 24 months; an estimate of the value of the contributed property to be added to the utility's books; and a description of the property.

(l) A schedule showing total collections of contributions-in-aid-of-construction (CIAC) as of 90 days prior to the date of application. Detail any prepaid CIAC by amount, the related reserved ERCs, and the anticipated connection date. Reference any appropriate developer agreements.

(m) A detailed statement of accumulated amortization of CIAC as listed in (l) above as of 90 days prior to application.

(n) Copies of approvals or permits for construction and operation of treatment facilities.

(o) A detailed statement by a registered professional engineer showing the cost, by Uniform System of Accounting ~~N.A.R.U.C.~~ account numbers, and capacity of proposed plant expansion, and a timetable showing projected construction time.

(p) A detailed statement by a registered professional engineer showing how the proposed construction will affect the capacity of the existing systems.

(q) If the expansion or plant upgrading is being undertaken to comply with the mandates of local, state or federal regulatory authorities, copies of the order(s) or correspondence directing the expansion or upgrading.

(r) A schedule showing the projected growth rate for utilization of the existing plant and line capacity and future plant and line capacity.

(s) A summary schedule of how the proposed service availability charge was calculated.

(t) A schedule showing, by meter size, the cost of meters, connecting fittings, meter boxes or enclosures and also showing sufficient data on labor and any other applicable costs to allow the determination of an average cost for meter installation by type.

(u) A statement of the existing and proposed on‑site and off‑site main installation charges or policy.

(v) The company's present capital structure, including the cost of debt in the present capitalization. The availability and cost of other sources of financing the proposed expansion or upgrading of the system also shall be given.

(w) An original and three copies of the proposed tariff sheets.

(5) Upon filing of the application and supporting exhibits, the utility shall place copies thereof at its local office of the utility serving the area affected by the charges and conditions, and such copies shall be made available for public inspection.

(6) Each utility shall demonstrate the appropriateness of ~~justify~~ the requested service availability charges and conditions. ~~by competent substantial evidence.~~

Specific Authority: 367.121(1), 367.101, F.S.

Law Implemented: 367.101, F.S.

History: New 6/14/83, Amended 11/9/86, .

Revised Economic Impact Statement - Docket No. 911082-WS, New Rules and Revisions Pertaining to Water and Wastewater Regulation

February 18, 1993

Mahoney

M E M O R A N D U M

February 18, 1993

TO:DIVISION OF APPEALS (MOORE)

FROM:DIVISION OF RESEARCH AND REGULATORY REVIEW (MAHONEY)

SUBJECT:REVISED ECONOMIC IMPACT STATEMENT FOR DOCKET NO. 911082-WS; PROPOSED REVISIONS TO RULES 25-22.0406, 25-30.020, 25-30.025, 25-30.030, 25‑30.032 THROUGH 25-30.037, 25-30.060, 25-30.110, 25-30.111, 25‑30.135, 25-30.255, 25-30.320, 25-30.355, 25-30.360, 25-30.430, 25-30.436, 25-30.437, 25-30.441, 25-30.443, 25-30.455, 25-30.515, AND 25-30.565, FAC; PROPOSED NEW RULES 25-22.0407, 25-22.0408, 25‑30.0371, 25-30.038, 25-30.039, 25-30.090, 25-30.117, 25-30.432 THROUGH 25-30.435, 25-30.4385, 25-30.4415, 25-30.456, 25-30.460, 25‑30.465, 25-30.470, AND 25-30.475, FAC; PROPOSED RULES AND RULE REVISIONS PERTAINING TO WATER AND WASTEWATER REGULATION

SUMMARY OF THE RULE

These new and amended rules are an attempt by the Division of Water and Wastewater to affect major cost savings for the Commission and for the water and wastewater utilities through codification and simplification of the regulatory process. The rules may be broadly separated into those pertaining to acquisition policy; certification; file and suspend rate cases; staff assisted rate cases; rates, charges, and tariffs; and miscellaneous and cleanup.

The acquisition policy changes relate to issues involved in the transfer of ownership of an existing utility. These changes explain and codify existing Commission policy relating to calculation of acquisition adjustments resulting from transfers and provide a mechanism that will encourage the acquisition of small systems by large utilities.

The proposed certification rule action includes streamlining of the notification requirements, an expedited amendment process for minor extensions, and two new rules codifying existing Commission practice in applications for acknowledgement of a name change and in abandonments.

The rules pertaining to file and suspend rate cases are primarily codification of existing Commission policy. However, there are some rules which would be a reversal of present Commission policy and some rules establish new Commission policy.

The changes pertaining to staff assisted rate cases are clarification and codification of existing Commission policy and practice. A new rule on non-rate base ratemaking implements a section of the statute that the Commission has not used prior to this time.

The rates, charges, and tariffs changes will clarify existing language, codify existing policy, or implement cost saving procedures.

The changes defined as miscellaneous and cleanup address rules related to various noticing requirements, mandatory meter installation, filing fees, out-of-state records, and elimination of the rule regarding imputation of CIAC (contributions-in-aid-of-construction). An additional revision requires individual metering for multiple units.

DIRECT COSTS TO THE AGENCY AND OTHER STATE OR LOCAL GOVERNMENT ENTITIES

No significant increased costs to the Commission have been identified. Due to the simplification of the filing process, in almost all cases under the new and revised rules, a decrease in total Commission costs per application and per rate case is expected. Some increases in Commission costs will occur as a result of the revision of Rule 25-30.135(3). This revision requires the provision of current copies of the water and wastewater rules and Chapter 367, FS, to the utilities by the Commission. This increase will reoccur annually as the Commission provides updated replacement sheets for those specific items which have been revised. It is not possible to quantify this cost at this time as the cost will vary from year to year based on the extent of any revisions to the rules or the statutes. The cost is expected to be an insignificant part of the total costs of regulating the industry.

The new rule requiring all utility systems of one company to file for a rate case together may result in increased Commission costs for the first rate case. However, that utility should file less rate cases over the long run, which would result in a decrease in Commission costs. The savings related to these changes are not quantifiable at this time.

No effect on costs or revenues to any other state or local government entity is anticipated as a direct result of these proposed rules and rule changes.

COSTS AND BENEFITS TO THOSE PARTIES DIRECTLY AFFECTED BY THE RULE

Of the seventy-nine concerned parties that were sent a data request soliciting information upon which to base the estimated economic impact of the proposed rule action, nine responded. Of the nine companies responding to the staff data request, five companies estimated some quantifiable costs/savings as a direct result of the rule action. These data are contained in the table below.

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| --- | --- | --- | --- |
| RULE | COMPANY | ESTIMATED COSTS | ESTIMATED SAVINGS |
| 25-22.0408 | Indiantown  Palm Coast  Royal Utility  Gulf Aire | $ 2,500 per application  5,000 per application  10,625 per application | $ 35 per application |
| 25-30.020 | Indiantown  Palm Coast  Royal Utility  Gulf Aire | 2,700 per application  6,000 per application  1,200 per application  750 per application |  |
| 25-30.036 | Gulf Aire | 400 per application |  |
| 25-30.110 | Palm Coast | 5,000 per application |  |
| 25-30.432 | Palm Coast  Royal Utility |  | 50,000 per rate case  15,000 per rate case |
| 25-30.433 | Palm Coast  Royal Utility  Gulf Aire | 3,000 one time  5,000 one time  2,000 one time |  |
| 25-30.435 | Florida Cities Water | 142,000 per rate case |  |
| 25-30.456 | Gulf Aire | 500 one time |  |

The estimates of costs/savings on a per rule basis are explained as follows:

25-22.0408Estimated increased costs are due to additional noticing requirements which will be necessary under the utilities' interpretation of one rule revision.

Estimated savings are due to the reduction in noticing requirements which will be necessary under the utility's interpretation of the rule revision.

25-30.020Estimated increased costs are based upon the proposed increases in filing fees.

25-30.036Estimated increased costs are due to the proposed addition of a special approval process for small extensions of service.

25-30.110Estimated increased costs are due to the change in Commission reimbursement for travel costs for Commission personnel when records are kept out of state.

25-30.255Estimated increased costs are due to requirement for individual metering for each separate occupancy unit constructed after January 1, 1993.

25-30.432Estimated savings are due to reductions in expense for professional work time necessary to prepare documentation for used-and-useful study.

25-30.433Estimated costs are worst case costs for increased expenses using the most costly alternatives for working capital allowance and imputation of CIAC.

25-30.435Estimated costs are due to the necessity to file information on all companies when requesting a rate change for one company in cases of multicompany entities. This estimate was based upon the utility's interpretation of the proposed rule. Staff strongly asserts that this rule would in fact substantially decrease costs under staff's interpretation of the rule.

25-30.456Estimated costs are projected on the utility's understanding of the additional effort needed to meet the requirements of the alternative staff assisted rate case.

Staff believes that some of these costs are based on a misunder­standing of the effect of the rule changes. In addition, other identified costs are not the increased costs related to the proposed rules but are the cost of performing certain functions which have been performed in the past but are now

being codified in these rule revisions. Therefore, it is the opinion of staff that the total estimated economic costs as provided by the companies would be somewhat less than was reported by the companies.

It should be noted that subsequent to the companies' responses to the data request, additional revisions were made to the proposed rules. Therefore any additional costs associated with the current proposed rules have not been identified by the companies in their data request responses. One revision to Rule 25-22.04(7), Notice and Public Information, now requires notification of hearing dates by use of newspaper display ad as opposed to the early rule proposal which required a legal notice.

To estimate any impact to the companies, a telephone survey of selected newspapers in different areas of the state was completed. This survey indicated the cost of a display ad generally ran about 40 to 45 percent higher than the cost of the same size classified ad (legal notice).

No other utility costs associated with implementation of these additional rule revisions were identified.

REASONABLE ALTERNATIVE METHODS

No reasonable alternatives to the staff's proposed package of rules and rule changes have been offered by any party although staff has, on its own, provided alternative methods for two of the proposed new rules. No information is yet available on cost differences, if any, between the alternatives for these rules.

IMPACT ON SMALL BUSINESSES

No direct impact on small businesses was identified. In addition, none of the utilities responding to the data request qualified as a small business as defined in Section 288.703(1), Florida Statutes (1991).

IMPACT ON COMPETITION

No impact on competition is foreseen as water and wastewater utilities are not normally in the competitive area. Further, since the rules would apply equally to all participants, should there be an occasion for competition, the rule changes should have no effect on this competition.

IMPACT ON EMPLOYMENT

Some decrease in the necessary level of work effort for both the Commission and the individual utilities is expected. This decrease in workload

is not expected to be large enough to affect staffing levels of either the Commission or the utilities. In all probability, there will be some decrease in the level of consulting work required by the utilities in order to meet present regulatory requirements.

METHODOLOGY

Meetings were held with the Division of Appeals and the Division of Water and Wastewater. Workshops were conducted with the Commission staff, the utilities, consultants, representatives of the Office of Public Counsel and other interested parties participating. Follow-up meetings were held and comments submitted. A data request was sent to participating parties soliciting information on the impact of the rule action. Current Florida statutes and Commission rules were reviewed for consistency.

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