

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendment of Rule 25-30.455, FAC, Staff Assistance in Rate Cases, Rule 25-30.456, FAC, Staff Assistance in Alternative Rate Setting, and Rule 25-30.457, FAC, Limited Alternative Rate Increase.

DOCKET NO. 140093-WS
ORDER NO. PSC-14-0291-NOR-WS
ISSUED: June 9, 2014

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF RULEMAKING

BY THE COMMISSION:

NOTICE is hereby given that pursuant to Section 120.54, Florida Statutes, the Florida Public Service Commission has proposed the amendment of Rules 25-30.455, 25-30.456 and 25-30.457, Florida Administrative Code, relating to staff assistance in rate cases, staff assistance in alternative rate setting, and limited alternative rate increases.

The attached Notice of Proposed Rule appeared in the June 9, 2014, edition of the Florida Administrative Register.

If timely requested, a hearing will be held at a time and place to be announced in a future notice.

Written requests for hearing and written comments on the rules must be received by the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than June 30, 2014.

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By ORDER of the Florida Public Service Commission this 9th day of June, 2014.



CARLOTTA S. STAUFFER

Commission Clerk

Florida Public Service Commission

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399

(850) 413-6770

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

RG

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NOS.: RULE TITLES:

25-30.455 Staff Assistance in Rate Cases

25-30.456 Staff Assistance in Alternative Rate Setting

25-30.457 Limited Alternative Rate Increase

PURPOSE AND EFFECT: Pursuant to Section 367.0814(1), F.S., Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., would be amended to increase the total gross annual operating revenues of water and wastewater utilities eligible for staff assistance in rate cases, alternative rate setting, and limited alternative rate increases from \$250,000 to \$275,000 or less for water or wastewater service, and from \$500,000 to \$550,000 or less for water and wastewater service combined. These rules would also be amended to remove from the Commission's consideration in ruling on an application whether the applicant has complied in a timely manner with all Commission decisions and requests for 2 years prior to the filing of the application. In addition, Rule 25-30.457, F.A.C., would be amended to also remove from the Commission's consideration in ruling on an application for limited alternative rate increase whether the utility has been granted a limited alternative rate increase within 3 years prior to the receipt of the application, and whether the utility is currently in compliance with any applicable water management district permit conditions concerning rate structure.

Docket No. 140093-WS

SUMMARY: Pursuant to Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., the total gross annual operating revenues of water and wastewater utilities eligible for staff assistance in rate cases, alternative rate setting, and limited alternative rate increases is currently \$250,000 or less for water or wastewater service, and \$500,000 or less for water and wastewater service combined. The rule amendments would increase those total gross annual operating revenues to \$275,000 or less for water or wastewater service, and to \$550,000 or less for water and wastewater service combined. Moreover, in ruling on an application pursuant to these rules, the Commission would no longer consider whether the applicant has complied in a timely manner with all Commission decisions and requests for 2 years prior to the filing of the application. In addition, in ruling on an application pursuant to Rule 25-30.457, F.A.C., the Commission would no longer consider whether the utility has been granted a limited alternative rate increase within 3 years prior to the receipt of the application, or whether the utility is currently in compliance with any applicable water management district permit conditions concerning rate structure.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

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

The SERC examined the factors required by Section 120.541(2)(c), FS, and concluded that the rule amendments will not have an adverse impact on economic growth, business competitiveness, or small business and that there would likely be regulatory cost savings to the entities required to comply with these rules.

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

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

RULEMAKING AUTHORITY: 350.127(2), 367.0814, 367.121 FS.

LAW IMPLEMENTED: 367.0814 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.455 Staff Assistance in Rate Cases.

(1) Water and wastewater utilities whose total gross annual operating revenues are ~~\$275,000~~ ~~\$250,000~~ or less for water service or ~~\$275,000~~ ~~\$250,000~~ or less for wastewater service, or ~~\$550,000~~ ~~\$500,000~~ or less on a combined basis, may petition the Commission for staff assistance in rate 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 protest by agreeing 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) ~~The appropriate application form, Commission Form PSC/AFD 2-W (11/86), entitled "Application for Staff Assisted Rate Case," is incorporated into this rule by reference and is available at: [hyperlink]. Upon request, the Division of Accounting and Finance shall provide the potential applicant with the appropriate application form, Commission Form PSC/AFD 2 W (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 also be obtained from the Commission's Division of Accounting and Finance, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

(3) Upon completion of the form, the ~~applicant shall file it with petitioner~~ may return it to the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 ~~0870~~.

~~(4) Upon receipt of a completed application, the Office of Commission Clerk shall acknowledge its 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 Accounting and Finance, Office of Auditing and Performance Analysis, and Office of General Counsel.~~

~~(4)(5) Within 30 days of receipt of the completed application, the Commission will committee shall evaluate the application and determine the applicant's petitioner's eligibility for staff assistance.~~

(a) If the Commission has received four or more 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 ~~will 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 ~~Commission will notify the applicant shall be notified~~ of the date on which the application may be resubmitted.

(b) Initially, determinations of eligibility ~~will may~~ be conditional, pending an ~~actual~~ examination of the condition of ~~the applicant's petitioner's~~ books and records. ~~After an initial determination of eligibility, the Office of Auditing and Performance Analysis committee shall examine the books and records of the utility before making a final determination of eligibility.~~

~~(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.~~

~~(5)(6) Upon making its final determination of eligibility, the Commission will notify the applicant in writing as to whether the application is officially accepted or denied. Upon reaching a decision to officially accept or deny the application, the Deputy Executive Director, Technical shall notify the petitioner by letter and initiate staff assistance for the accepted applicant. If the application is accepted, a staff assisted rate case will be initiated. If the application is denied, the notification of application denial will state the deficiencies in the application with reference to the criteria set out in subsection (7) of this rule.~~

~~(6)(7) The official date of filing will be 30 days after the date of the written notification to letter notifying the applicant of the Commission's official acceptance of the application by the Commission.~~

~~(7)(8)~~ In ~~determining arriving at a recommendation~~ whether to grant or deny the application petition, the Commission will consider the following criteria: following shall be considered:

(a) Whether the applicant petitioner qualifies for staff assistance pursuant to subsection (1) of this rule;
(b) Whether the applicant's 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 applicant petitioner has filed annual reports;

(d) Whether the applicant petitioner has paid applicable regulatory assessment fees;

(e) Whether the applicant petitioner has at least one year of 4-year's actual experience in utility operation;

(f) Whether the applicant petitioner has filed additional relevant information in support of eligibility, together with reasons why the information should be considered; and

(g) Whether the utility was granted a rate case increase within the 2-year period prior to the receipt of the application under review. Whether the petitioner has complied in a timely manner with all Commission decisions and requests affecting water and wastewater utilities for 2 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-year period prior to the receipt of the application under review.~~

~~(8)(9)~~ The Commission will deny the application if the a utility does not remit the filing fee, as provided by Section 367.145, F.S., and paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance.

~~(9)(10)~~ An aggrieved applicant petitioner may request reconsideration of the application denial, which will shall be decided by the full Commission.

~~(10)(11)~~ 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 Order, as set forth in Rule 28-106.111 25-22-036, F.A.C.

(11) A petition to protest the Commission's proposed agency action shall conform to Rule 28-106.201, F.A.C.

(12) In the event of a protest of the Commission's Notice of Proposed Agency Action Order (PAA Order) in a staff assisted rate case, the utility shall:

(a) Provide prefiled direct testimony in accordance with the Order Establishing Procedure procedural order issued in the case. At a minimum, that testimony shall adopt the Commission's Proposed Agency Action 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 proposed agency action 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 Proposed Agency Action PAA Order; and

(d) Meet all other requirements of the Order Establishing Pprocedures.

(13) Failure to comply with the dates established in the Order Establishing Procedure procedural order, or to file timely file 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.

(14) In the event of a protest of the Commission's Proposed Agency Action PAA Order in a staff assisted rate case, the Commission staff shall:

(a) File prefiled direct testimony to explain its analysis in the staff proposed agency action 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 Pprocedures; and

(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 Proposed Agency Action 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.

Rulemaking Authority 350.127(2),367.0814 371.0814, 367.121 FS. Law Implemented 367.0814 FS. History--New 12-8-80,

Formerly 25-10.180, Amended 11-10-86, 8-26-91, 11-30-93, 1-31-00, 12-16-08, _____.

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 \$275,000 ~~\$250,000~~ or less for water service or \$275,000 ~~\$250,000~~ or less for wastewater service, or \$550,000 ~~\$500,000~~ 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) The appropriate application form, Commission Form PSC/AFD 25 (11/93), entitled "Application for Staff Assistance for Alternative Rate Setting," is incorporated into this rule by reference and is available at: [hyperlink]. Upon request, the Division of Accounting and Finance shall provide the potential applicant with the application form, PSC/AFD 25 (11/93), titled "Application for Staff Assistance for 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 also be obtained from the Commission's Division of Accounting and Finance, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

(3) Upon completion of the form, the applicant shall file it with ~~may return it to~~ the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 ~~0870~~.

~~(4) Upon receipt of an application, the Office of Commission Clerk shall acknowledge its receipt, assign a docket number for identification, and shall forward the application to the Commission's Division of Accounting and Finance.~~

~~(4)(5) Within 30 days of receipt of the completed application, the Commission will~~ Division of Accounting and Finance shall evaluate the application and determine the applicant's ~~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 will ~~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 Commission will notify the applicant ~~shall be notified~~ of the date on which the application may be resubmitted.

(b) Determinations of eligibility will ~~may~~ be conditional, pending an actual ~~actual~~ examination of the condition of the applicant's ~~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.~~

~~(5)(6) Upon making its final determination of eligibility, the Commission will notify the applicant in writing as to whether the application is officially accepted or denied. Upon reaching a decision to officially accept or deny the application, the Deputy Executive Director, Technical shall notify the applicant by letter and initiate staff assistance for the accepted applicant. If the application is accepted, staff assistance in alternative rate setting will be initiated. If the application is denied, the notification of application denial will state the deficiencies in the application with reference to the criteria set out in subsection (7) of this rule.~~

~~(6)(7) The official date of filing will be 30 days after the date of the written notification to the applicant of the Commission's official acceptance of the application by the Commission.~~

~~(7)(8) In determining deciding whether to grant or deny the application, the Commission will consider the following criteria: following shall be considered:~~

(a) Whether the applicant qualifies for staff assistance pursuant to subsection (1) of this rule;

(b) Whether the applicant'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)(b) Whether the applicant has filed annual reports;~~

~~(d)(e) Whether the applicant has paid applicable regulatory assessment fees;~~

~~(e)(d) Whether the applicant has at least one year of 1-year's actual experience in utility operation;~~

~~(f)(e) Whether the applicant has filed additional relevant information in support of eligibility, together with~~

reasons why the information should be considered; and

~~(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 was ~~has been~~ granted a rate case increase ~~staff assisted rate case or alternative rate setting~~ within the 2-year period prior to the receipt of the application under review.

~~(8)(9)~~ The Commission will ~~shall~~ deny the application if the ~~a~~ utility does not remit the filing fee, as provided by ~~Section 367.145, F.S., and~~ paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance.

~~(9)(10)~~ An aggrieved applicant may request reconsideration of the application denial, which will ~~shall~~ be decided by the full Commission.

~~(10)(11)~~ The Commission will ~~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 will ~~shall~~ consider an allowance for return on working capital using the one-eighth of O & M formula approach.

~~(11)(12)~~ The Commission will ~~shall~~ limit the maximum increase in operating revenues to 50 percent of test year operating revenues.

~~(12)(13)~~ The Commission will ~~shall~~ vote on a proposed agency action (~~PAA~~) recommendation establishing rates no later than 90 days from the official filing date as established in subsection (6) of this rule, ~~25-30.455(7), F.A.C.~~

~~(13)(14)~~ A substantially affected person may file a petition to protest the Commission's Proposed Agency Action ~~PAA~~ Order regarding a staff assisted alternative rate setting application within 21 days of issuance of the Notice of Proposed Agency Action Order, as set forth in Rule 28-106.111 ~~28-106.201~~, F.A.C.

~~(14)~~ A petition to protest the Commission's proposed agency action shall conform to Rule 28-106.201, F.A.C.

(15) In the event of protest of the Proposed Agency Action ~~PAA~~ Order by a substantially affected person ~~party~~, the rates established in the Proposed Agency Action ~~PAA~~ Order may be implemented on a temporary basis, subject to refund with interest in accordance with Rule 25-30.360, F.A.C. 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.

(16) In the event of a protest, the maximum increase established in subsection (11) of this rule ~~(13) above~~ shall no longer apply.

(17) In the event of a protest of the Commission's Proposed Agency Action ~~PAA~~ Order in a staff assisted alternative rate setting application, the utility shall:

(a) Provide prefiled direct testimony in accordance with the Order Establishing Procedure ~~procedural order~~ issued in the case. At a minimum, that testimony shall adopt the Commission's Proposed Agency Action ~~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 proposed agency action ~~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 Proposed Agency Action ~~PAA~~ Order; and

(d) Meet all other requirements of the Order Establishing Procedures.

(18) Failure to comply with the dates established in the Order Establishing Procedure ~~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.

(19) In the event of protest of the Commission's Proposed Agency Action ~~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 proposed agency action ~~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; and

(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 Proposed Agency Action 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.

Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History—New 11-30-93, Amended 1-31-00, 12-16-08,_____.

25-30.457 Limited Alternative Rate Increase.

(1) As an alternative to a staff assisted rate case as described in Rules 25-30.455, F.A.C., or to staff assistance in alternative rate setting as described in Rule ~~and~~ 25-30.456, F.A.C., water utilities whose total gross annual operating revenues are ~~\$275,000~~ ~~\$250,000~~ or less for water service and wastewater utilities whose total gross annual operating revenues are ~~\$275,000~~ ~~\$250,000~~ or less for wastewater service may petition the Commission for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service by filing with the Office of Commission Clerk submitting a completed application that includes the information required by subsections (7), (8) and (9) of this rule. ~~In accordance with Section 367.0814(6), F.S., a utility that requests staff assistance waives its right to protest by agreeing 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. The original and two copies of the application shall be filed with the Office of Commission Clerk.~~

(2) Upon filing a petition for a limited alternative 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 and retain a copy at the utility's business office.

~~(2)(3)~~ Within 30 days of receipt of the completed petition application, the Commission will ~~Division of Accounting and Finance shall~~ evaluate the petition application and determine the petitioner's eligibility for a limited alternative rate increase.

(3) The Commission will notify the petitioner in writing as to whether the petition is accepted or denied. If the petition is accepted, staff assistance in alternative rate setting will be initiated. If the petition is denied, the notification of petition denial will state the deficiencies in the petition with reference to the criteria set out in subsection (5) of this rule.

~~(4) Upon reaching a decision to officially accept or deny the application, the Deputy Executive Director, Technical shall notify the petitioner by letter. If the application is accepted, the Director will initiate limited alternative rate setting. If the application is denied, the letter shall state the reasons for denial.~~

~~(4)(5)~~ The official date of filing will be 30 days after the date of the written notification to the petitioner of the Commission's official acceptance of the petition application by the Commission.

(5) In determining whether to grant or deny the petition, the Commission will consider the following criteria:

(a) Whether the petitioner qualifies for staff assistance pursuant to subsection (1) of this rule;

(b) Whether the petitioners' 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 one year of 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 utility was granted a rate case increase within the 2-year period prior to the receipt of the petition under review;

(h) Whether a final order in a rate proceeding that established the utility's rate base, capital structure, annual operating expenses and revenues has been issued for the utility within the 7-year period prior to the receipt of the petition under review.

~~(6) A utility described in subsection (1) will qualify for limited alternative rate setting if it satisfies the following criteria:~~

- ~~(a) The petitioner has filed all annual reports required by subsection 25-30.110(3), F.A.C.;~~
- ~~(b) The petitioner has paid applicable regulatory assessment fees as required by Rule 25-30.120, F.A.C.;~~
- ~~(c) The petitioner has at least 1 year's actual experience in utility operation;~~
- ~~(d) The petitioner has complied in a timely manner with all Commission decisions affecting water and wastewater utilities for 2 years prior to the filing of the application under review;~~
- ~~(e) The utility has not been granted a staff-assisted rate case pursuant to Rule 25-30.455, F.A.C., or a staff-assisted alternative rate setting pursuant to Rule 25-30.456, F.A.C., within the 2-year period prior to the receipt of the application under review;~~
- ~~(f) The utility has not been granted a limited alternative rate increase pursuant to this rule within the 3-year period prior to the receipt of the application under review;~~
- ~~(g) The utility is currently in compliance with any applicable water management district permit conditions concerning rate structure; and~~
- ~~(h) A final order in a rate proceeding that established the utility's rate base, capital structure, annual operating expenses and revenues has been issued for the utility within the 7-year period prior to the receipt of the application under review.~~

~~(6)(7) The Commission will shall deny the petition application if the a petitioner does not remit the filing fee, as provided by Section 367.145, F.S., and paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance of the petition application.~~

~~(7)(8) Each petitioner for limited alternative rate increase shall provide the following general information to the Commission:~~

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

~~(b) The type of business organization under which the utility's operations are conducted: if the petitioner is a corporation, the date of incorporation and the names and addresses of all persons who own 5 percent or more of the petitioner's stock; if the petitioner is not a corporation, the names and addresses of the owners of the business.~~

~~1. If the petitioner is a corporation, the date of incorporation and the names and addresses of all persons who own five percent or more of the petitioner's stock; or~~

~~2. If the petitioner is not a corporation, the names and addresses of the owners of the business.~~

~~(8)(9) The petitioner shall provide a schedule showing:~~

~~(a) Annualized revenues by customer class and meter size for the most recent 12-month period using the rates in effect at the time the utility files its petition application; and~~

~~(b) Current and proposed rates for all classes of customers.~~

~~(9)(10) The petitioner shall provide a statement that the figures and calculations upon which the change in rates is based are accurate and that the change will not cause the utility to exceed its last authorized rate of return on equity.~~

~~(10)(11) A financial or engineering audit of the utility's financial or engineering books and records shall not be required in conjunction with the petition application under review.~~

~~(11)(12) The petition application will be approved, denied, or approved with modifications within 90 days from the official filing date as established in subsection (4) of this rule (5) above.~~

~~(12)(13) In consideration of subsections (11) and (12), the utility agrees to hold Any revenue increase granted under the provisions of this rule shall be held subject to refund with interest in accordance with Rule 25-30.360, F.A.C., for a period of 15 months after the filing of the utility's annual report required by Rule 25-30.110, F.A.C., Section 367.121, F.S., for the year the adjustment in rates was implemented.~~

~~(13)(14) To insure overearnings will not occur due to the implementation of this rate increase, the Commission will conduct an earnings review of the utility's annual report to determine any potential overearnings for the year the adjustment in rates was implemented.~~

~~(14)(15) If, within 15 months after the filing of a utility's annual report required by Section 367.121, F.S., the Commission finds that the utility exceeded the range of its last authorized rate of return on equity after an adjustment in rates, as authorized by this rule, was implemented within the year for which the report was filed, such~~

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overearnings, up to the amount held subject to refund, with interest, shall be disposed of for the benefit of the customers as provided in Section 367.081(4)(d), F.S.

~~(15)~~(16) In the event of a protest of the ~~P~~roposed ~~A~~gency ~~A~~ction (~~PAA~~) Order pursuant to Rule ~~28-106.111~~ ~~28-106.201~~, F.A.C., by a substantially affected person other than the utility, unless the Proposed Agency Action PAA Order proposes a rate reduction, the utility may implement the rates established in the Proposed Agency Action PAA Order on a temporary basis subject to refund with interest in accordance with Rule 25-30.360, F.A.C., upon the utility filing a staff assisted rate case application pursuant to Rule 25-30.455, F.A.C., within 21 days of the date the protest is filed.

~~(16)~~(17) In the event of a protest, the limit on the maximum increase provided in subsection (1) of this rule above shall no longer apply.

~~(17)~~(18) If the utility fails to file a staff assisted rate case application within 21 days in the event of there is a protest, the petition application for a limited alternative rate increase will be deemed withdrawn.

Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History—New 3-15-05, Amended 12-16-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cheryl Bulecza-Banks

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 40, Number 64, April 2, 2014