

STATE OF FLORIDA

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Public Service Commission

June 25, 2014

Ms. Jamie L. Jackson
Senior Attorney
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400

RECEIVED-PPSC
14 JUN 25 PM 1:20
COMMISSION
CLERK

RE: Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C.

Dear Ms. Jackson,

Thank you for your comments concerning the above-referenced rules. Attached is an updated copy of Rules 25-30.455 and 25-30.456, showing the four corrections identified in your letter of June 13, 2014. As we discussed by phone, the Commission will not issue a Notice of Change to make these corrections, as they are technical rather than substantive in nature.

If you have any further questions or comments concerning these rules, please feel free to contact me at (850) 413-6224.

Sincerely,

Rosanne Gervasi
Senior Attorney

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2014 JUN 25 AM 11:15
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE

Enclosure
cc: Office of Commission Clerk

1 **25-30.455 Staff Assistance in Rate Cases.**

2 (1) Water and wastewater utilities whose total gross annual operating revenues are
3 \$275,000 ~~\$250,000~~ or less for water service or \$275,000 ~~\$250,000~~ or less for wastewater
4 service, or \$550,000 ~~\$500,000~~ or less on a combined basis, may petition the Commission for
5 staff assistance in rate applications by submitting a completed staff assisted rate case
6 application. ~~In accordance with Section 367.0814(4), F.S., a utility that requests staff~~
7 ~~assistance waives its right to protest by agreeing to accept the final rates and charges approved~~
8 ~~by the Commission unless the final rates and charges would produce less revenue than the~~
9 ~~existing rates and charges.~~ If a utility that chooses to utilize the staff assistance option employs
10 outside experts to assist in developing information for staff or to assist in evaluating staff's
11 schedules and conclusions, the reasonable and prudent expense will be recoverable through
12 the rates developed by staff. A utility that chooses not to exercise the option of staff assistance
13 may file for a rate increase under the provisions of Rule 25-30.443, F.A.C.

14 (2) The appropriate application form, Commission Form PSC/AFD 2-W (11/86) (Rev.
15 06/14), entitled "Application for a Staff Assisted Rate Case," is incorporated into this rule by
16 reference and is available at: [hyperlink]. ~~Upon request, the Division of Accounting and~~
17 ~~Finance shall provide the potential applicant with the appropriate application form,~~
18 ~~Commission Form PSC/AFD 2-W (Rev. 11/86), "Application for Staff Assisted Rate Case";~~
19 ~~which is incorporated by reference in this rule, and a copy of Rule 25-30.455, F.A.C.,~~
20 ~~governing staff-assisted rate cases.~~ The form may also be obtained from the Commission's
21 Division of Accounting and Finance, 2540 Shumard Oak Boulevard, Tallahassee, Florida
22 32399-0850.

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

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

1 ~~(4) Upon receipt of a completed application, the Office of Commission Clerk shall~~
2 ~~acknowledge its receipt, assign a docket number for identification, and shall forward the~~
3 ~~application to a committee comprised of one member each of the Commission's Divisions of~~
4 ~~Accounting and Finance, Office of Auditing and Performance Analysis, and Office of General~~
5 ~~Counsel.~~

6 (4)(5) Within 30 days of receipt of the completed application, the Commission will
7 ~~committee shall~~ evaluate the application and determine the applicant's petitioner's eligibility
8 for staff assistance.

9 (a) If the Commission has received four or more applications in the previous 30 days;
10 or, if the Commission has 20 or more docketed staff assisted rate cases in active status on the
11 date the application is received, the Commission will ~~shall~~ deny initial evaluation of an
12 application for staff assistance and close the docket. When an application is denied under the
13 provisions of this paragraph subsection, the Commission will notify the applicant ~~shall be~~
14 ~~notified~~ of the date on which the application may be resubmitted.

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

19 ~~(c) All recommendations of ineligibility shall be in writing and shall state the~~
20 ~~deficiencies in the application with reference to guidelines set out in subsection (8) of this~~
21 ~~rule.~~

22 (5)(6) Upon making its final determination of eligibility, the Commission will notify
23 the applicant in writing as to whether the application is officially accepted or denied. ~~Upon~~
24 ~~reaching a decision to officially accept or deny the application, the Deputy Executive Director,~~
25 ~~Technical shall notify the petitioner by letter and initiate staff assistance for the accepted~~

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1 ~~applicant.~~ If the application is accepted, a staff assisted rate case will be initiated. If the
2 application is denied, the notification of application denial will state the deficiencies in the
3 application with reference to the criteria set out in subsection (7) of this rule.

4 ~~(6)(7)~~The official date of filing will be 30 days after the date of the written notification
5 to letter notifying the applicant of the Commission's official acceptance of the application by
6 the Commission.

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

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

12 (b) Whether the applicant's petitioner's books and records are organized consistent
13 with Rule 25-30.110, F.A.C., so as to allow Commission personnel to verify costs and other
14 relevant factors within the 30-day time frame set out in this rule;

15 (c) Whether the applicant petitioner has filed annual reports;

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

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

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

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

25 (h) Whether the utility has applied for a staff assisted rate case within the 2-year period

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1 prior to the receipt of the application under review.

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

5 (9)(10) An aggrieved applicant petitioner may request reconsideration of the
6 application denial, which will shall be decided by the full Commission.

7 (10)(11) A substantially affected person may file a petition to protest the
8 Commission's proposed agency action in a staff assisted rate case within 21 days of issuance
9 of the Notice of Proposed Agency Action Order, as set forth in Rule 28-106.111 25-22.036,
10 F.A.C.

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

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

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

18 (b) Sponsor a witness to support source documentation provided to the Commission
19 staff in its preparation of the staff audit, the staff engineering and accounting report and the
20 staff proposed agency action PAA recommendation in the case;

21 (c) Include in its testimony the necessary factual information to support its position on
22 any issue that it chooses to take a position different than that contained in the Commission's
23 Proposed Agency Action PAA Order; and

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

25 (13) Failure to comply with the dates established in the Order Establishing Procedure

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1 ~~procedural order~~, or to file timely file a request for extension of time for good cause shown,
2 may result in dismissal of the staff assisted rate case and closure of the docket.

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

5 (a) File prefiled direct testimony to explain its analysis in the staff proposed agency
6 action PAA recommendation. In the event the staff wishes to alter its PAA position on any
7 issue, it shall provide factual testimony to support its changed position;

8 (b) Meet all other requirements of the ~~O~~order ~~E~~establishing ~~P~~procedures; and

9 (c) Provide to the utility materials to assist the utility in the preparation of its testimony
10 and exhibits. This material shall consist of an example of testimony filed by a utility in another
11 case, an example of testimony that would support the Proposed Agency Action PAA Order in
12 this case, an example of an exhibit filed in another case, and examples of prehearing
13 statements and briefs filed in other cases.

14 *Rulemaking Authority 350.127(2), 367.0814 ~~371.0814~~, 367.121 FS. Law Implemented*
15 *367.0814 FS. History—New 12-8-80, Formerly 25-10.180, Amended 11-10-86, 8-26-91, 11-30-*
16 *93, 1-31-00, 12-16-08, _____.*

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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) (Rev. 06/14), 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

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1 applicant's ~~petitioner's~~ eligibility for staff assistance.

2 (a) If the Commission has received four or more alternative rate setting applications in
3 the previous 30 days; or, if the Commission has 20 or more docketed staff assisted rate cases
4 in active status on the date the application is received, the Commission will ~~shall~~ deny initial
5 evaluation of an application for staff assistance and close the docket. When an application is
6 denied under the provisions of this paragraph subsection, the Commission will notify the
7 applicant ~~shall be notified~~ of the date on which the application may be resubmitted.

8 (b) Determinations of eligibility will ~~may~~ be conditional, pending an actual
9 examination of the condition of the applicant's ~~petitioner's~~ books and records.

10 (c) ~~All recommendations of ineligibility shall be in writing and shall state the~~
11 ~~deficiencies in the application with reference to guidelines set out in subsection (8) of this~~
12 ~~rule.~~

13 (5)(6) Upon making its final determination of eligibility, the Commission will notify
14 the applicant in writing as to whether the application is officially accepted or denied. Upon
15 ~~reaching a decision to officially accept or deny the application, the Deputy Executive Director,~~
16 ~~Technical shall notify the applicant by letter and initiate staff assistance for the accepted~~
17 ~~applicant. If the application is accepted, staff assistance in alternative rate setting will be~~
18 ~~initiated. If the application is denied, the notification of application denial will state the~~
19 ~~deficiencies in the application with reference to the criteria set out in subsection (7) of this~~
20 ~~rule.~~

21 (6)(7) The official date of filing will be 30 days after the date of the written
22 notification to the applicant of the Commission's official acceptance of the application by the
23 Commission.

24 (7)(8) In determining ~~deciding~~ whether to grant or deny the application, the
25 Commission will consider the following criteria: following shall be considered:

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

3 (b) Whether the applicant's books and records are organized consistent with Rule 25-
4 30.110, F.A.C., so as to allow Commission personnel to verify costs and other relevant factors
5 within the 30-day time frame set out in this rule;

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

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

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

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

12 ~~(f)~~ ~~Whether the applicant has made a good faith effort in a timely manner to comply~~
13 ~~with all Commission decisions and requests affecting water and wastewater utilities for 2~~
14 ~~years prior to the filing of the application under review;~~

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

18 ~~(8)(9)~~ The Commission will ~~shall~~ deny the application if the ~~a~~ utility does not remit the
19 filing fee, as provided by ~~Section 367.145, F.S., and paragraph Rule 25-30.020(2)(f), F.A.C.,~~
20 within 30 days after official acceptance.

21 ~~(9)(10)~~ An aggrieved applicant may request reconsideration of the application denial,
22 which will ~~shall~~ be decided by the full Commission.

23 ~~(10)(11)~~ The Commission will ~~shall~~, for the purposes of determining the amount of
24 rate increase, if any, compare the operation and maintenance expenses (O & M) of the utility
25 to test year operating revenues. The Commission will ~~shall~~ consider an allowance for return on

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1 working capital using the one-eighth of O & M formula approach.

2 ~~(11)~~(12) The Commission will ~~shall~~ limit the maximum increase in operating revenues
3 to 50 percent of test year operating revenues.

4 ~~(12)~~(13) The Commission will ~~shall~~ vote on a proposed agency action (~~PAA~~)
5 recommendation establishing rates no later than 90 days from the official filing date as
6 established in subsection ~~(6)~~ of this rule. ~~25-30.455(7), F.A.C.~~

7 ~~(13)~~(14) A substantially affected person may file a petition to protest the
8 Commission's Proposed Agency Action PAA Order regarding a staff assisted alternative rate
9 setting application within 21 days of issuance of the Notice of Proposed Agency Action Order,
10 as set forth in Rule ~~28-106.111~~ 28-106.201, F.A.C.

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

13 (15) In the event of protest of the Proposed Agency Action PAA Order by a
14 substantially affected ~~person party~~, the rates established in the Proposed Agency Action PAA
15 Order may be implemented on a temporary basis, subject to refund with interest in accordance
16 with Rule 25-30.360, F.A.C. At that time, the utility may elect to pursue rates set pursuant to
17 the rate base determination provisions of Rule 25-30.455, F.A.C.

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

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

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

25 (b) Sponsor a witness to support source documentation provided to the Commission

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1 staff in its preparation of the staff engineering and accounting analysis and the staff proposed
2 agency action PAA recommendation in the case;

3 (c) Include in its testimony the necessary factual information to support its position on
4 any issue that it chooses to take a position different than that contained in the Commission's
5 Proposed Agency Action PAA Order; and

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

7 (18) Failure to comply with the dates established in the Order Establishing Procedure
8 ~~procedural order~~, or to timely file a request for extension of time for good cause shown, may
9 result in dismissal of the staff assisted alternative rate setting application and closure of the
10 docket.

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

13 (a) File prefiled direct testimony to explain its analysis in the proposed agency action
14 PAA recommendation. In the event the staff wishes to alter its PAA position on any issue, it
15 shall provide factual testimony to support its changed position; -

16 (b) Meet all other requirements of the Order Establishing Procedures; and

17 (c) Provide to the utility materials to assist the utility in the preparation of its testimony
18 and exhibits. This material shall consist of an example of testimony filed by a utility in another
19 case, a sample of testimony that would support the Proposed Agency Action PAA Order in
20 this case, an example of an exhibit filed in another case, and examples of prehearing
21 statements and briefs filed in other cases.

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

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25