

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendment of Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, F.A.C., related to water and wastewater utilities.

DOCKET NO. 20210122-WS  
ORDER NO. PSC-2021-0428-FOF-WS  
ISSUED: November 18, 2021

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman  
ART GRAHAM  
ANDREW GILES FAY  
MIKE LA ROSA  
GABRIELLA PASSIDOMO

NOTICE OF ADOPTION OF RULE

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has adopted without changes Rules 25-30.025, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, Florida Administrative Code.

The rules were filed with the Department of State on November 18, 2021 and will be effective on December 8, 2021. A copy of the rules as filed with the Department is attached to this Notice.

This docket shall remain open upon issuance of this Notice.

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By ORDER of the Florida Public Service Commission this 18th day of November, 2021.



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ADAM J. TEITZMAN  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
[www.floridapsc.com](http://www.floridapsc.com)

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

KGWC

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

(1) The “official date of filing” is the date on which the Director of the division that has been assigned the primary responsibility for the filing ~~Deputy Executive Director, Technical~~ determines the utility has filed completed sets of the minimum filing requirements (MFRs), including testimony that may be required by subsection 25-30.436(2), F.A.C., and payment of the appropriate filing fee to the Office of the Commission Clerk.

(2) The Director of the division that has been assigned the primary responsibility for the filing will ~~Deputy Executive Director, Technical~~ shall determine the official date of filing for any utility’s application and advise the applicant. The Commission will ~~shall~~ resolve any dispute regarding the official date of filing.

*Rulemaking Authority 350.127(2), 367.121(1) FS. Law Implemented 367.083 FS. History—New 3-26-81, Formerly 25-10.12, 25-10.012, Amended 11-10-86, 11-30-93, \_\_\_\_\_.*

**25-30.446 Notice of and Public Information for Application for Limited Proceeding Rate Increase.**

(1) This rule applies to all applications ~~requests~~ for limited proceeding rate increases made by a water or wastewater utility.

(2) Upon filing an application ~~a petition~~ for limited proceeding rate increase, the utility must notify ~~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 that the utility has applied for a limited proceeding rate increase. The notification must clearly identify the Commission-assigned docket number and include ~~Each copy of the petition shall be accompanied by~~ a statement that a copy of the application and Minimum Filing Requirements (MFRs) set forth in Rule 25-30.445, F.A.C., ~~when accepted by the Commission~~ can be accessed on the Commission's website ~~obtained from the petitioner upon request.~~

(3) ~~Within 30 days after the official date of the filing established by the Commission, the utility shall place a copy of the petition and the MFRs at its official headquarters and at all 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. If the Commission determines that these locations will not provide adequate access, the Commission will require that copies of the petition and MFRs be placed at other specified locations.~~

(3)(4) Upon filing an application ~~a petition~~ and MFRs for a limited proceeding, the utility must ~~shall~~ publish a notice of application in a newspaper of general circulation in the service areas included in the application ~~petition~~.

(4)(5)(a) Within 50 days after the official date of filing established by the Commission, the utility must ~~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 must be approved by Commission staff prior to distribution and must ~~shall~~ include the following:

1. The date the notice is to be 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 ~~that of the locations where copies of the MFRs and application petition~~ are available on the Commission's website ~~for public inspection and the hours and days when inspection may be made;~~

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

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

6. A statement that written comments regarding utility service or the proposed rates and charges should be addressed to the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, and that such comments should identify the docket number assigned to the proceeding;

7. A statement that complaints regarding service may be made to the Commission's Office of Consumer Assistance and Outreach at the following toll-free number: 1(800) 342-3552; and

8. The docket number assigned by the Commission's Office of Commission Clerk.

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

~~(5)(6)~~ 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 ~~must shall~~ provide written notice of the date, time, location, and purpose of the customer meeting to all customers within the service areas designated by the Commission staff. The notice must be approved by Commission staff prior to distribution. The notice ~~must shall~~ be mailed to the out-of-town address of all customers who have provided the utility with an out-of-town address.

~~(6)(7)~~ If a proposed agency action order issued in the case is protested and any hearings are subsequently held, the utility ~~must give notice in accordance with subsection (5) of this rule shall give notice 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 ~~must shall~~ also ~~publish 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 must be approved by Commission staff prior to publication.

~~(7)(8)~~ After the Commission issues an order granting or denying a rate change, the utility ~~must shall~~ notify its customers of the order and any revised rates. The customer notification must be first approved by Commission staff

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and must ~~shall~~ be distributed no later than with the first bill containing any revised rates.

*Rulemaking Authority 350.127(2), 367.121(1)(a) FS. Law Implemented 367.0822, 367.121(1)(a) FS. History—New*

*3-1-04,\_\_\_\_\_.*

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

(1) Water and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for water service or \$300,000 or less for wastewater service, or \$600,000 or less on a combined basis, may file with the Office of Commission Clerk an application ~~petition the Commission~~ for staff assistance in rate applications by submitting a completed staff assisted rate case application. Reasonable and prudent rate case expense ~~is shall be~~ eligible for recovery through the rates developed by staff. Recovery of attorney fees and outside consultant fees related to the rate case ~~is shall be~~ determined based on the requirements set forth in Section 367.0814(3), F.S. To be eligible for staff assistance under this rule:

(a) The applicant or utility owner must have at least one year of experience operating the utility for which the rate increase is being requested;

(b) The utility must be in compliance with its annual report filing in accordance with subsection 25-30.110(3), F.A.C.; and

(c) The utility must have paid all required regulatory assessment fees or must be current on any approved regulatory assessment fee payment plan.

~~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) (Rev. 06/14), entitled “Application for a Staff Assisted Rate Case,” is incorporated into this rule by reference and is available at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04415>. The form is also available on the Commission’s website, [www.floridapsc.com](http://www.floridapsc.com). ~~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 the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870.

(4)(a) Within 30 days of receipt of the completed application, the Commission will evaluate the application and determine the applicant’s eligibility for staff assistance.

~~(b)(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 deny initial evaluation of an application for staff assistance and close the docket. When an application is denied under the provisions of this paragraph, the Commission staff will notify the applicant of the date on which the application may be resubmitted.

~~(c)(b)~~ Initially, determinations of eligibility will be conditional, pending an examination of the condition of the applicant's books and records.

(5) Upon making its final determination of eligibility, the Commission staff will notify the applicant in writing as to whether the application is officially accepted or denied. 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) The date of Commission staff's written notification to the utility that the utility is eligible for staff assistance under this rule will be considered the date of official acceptance of the application by the Commission. The official date of filing ~~is will be~~ 30 days after the official acceptance of the application by the Commission staff. ~~date of the written notification to the applicant of the Commission's official acceptance of the application.~~

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

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

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

~~(e) Whether the applicant has at least one year of experience in utility operation;~~

~~(f) Whether the applicant 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.~~

~~(7)(8)~~ The Commission will deny the application is deemed denied if the utility does not remit the filing fee, as

provided by paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance.

~~(8)(9)~~ An aggrieved applicant may request reconsideration of the application denial within 15 days of receipt of notification that the application is denied. ~~The request, which~~ will be decided by the full Commission.

~~(9)(10)~~ 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, F.A.C.

~~(10)(11)~~ A petition to protest the Commission's proposed agency action must shall conform to Rule 28-106.201, F.A.C.

~~(11)(12)~~ In the event of a protest of the Commission's Notice of Proposed Agency Action Order in a staff assisted rate case, the utility must shall:

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

(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 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 Order; and,

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

~~(12)(13)~~ Failure to comply with the dates established in the Order Establishing Procedure, or to 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.

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

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

(b) Meet all other requirements of the Order Establishing Procedure; and,

(c) Provide to the utility materials to assist the utility in the preparation of its testimony and exhibits. This material ~~will~~ 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 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 12-8-80, Formerly 25-10.180, Amended 11-10-86, 8-26-91, 11-30-93, 1-31-00, 12-16-08, 8-10-14, 2-19-17, 7-1-18, \_\_\_\_\_*

**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 \$300,000 or less for water service or \$300,000 or less for wastewater service, or \$600,000 or less on a combined basis, may file with the Office of Commission Clerk an application ~~petition the Commission~~ for staff assistance in alternative rate setting by submitting a completed staff assisted application for alternative rate setting. To be eligible for staff assistance under this rule:

(a) The applicant or utility owner must have at least one year of experience operating the utility for which the rate increase is being requested;

(b) The utility must be in compliance with its annual report filing in accordance with subsection 25-30.110(3), F.A.C.; and

(c) The utility must have paid all required regulatory assessment fees or must be current on any approved regulatory assessment fee payment plan.

(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: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04414>. The form is also available on the Commission’s website, [www.floridapsc.com](http://www.floridapsc.com), ~~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 ~~must~~ shall file it with the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870.

(4)(a) Within 30 days of receipt of the completed application, the Commission will evaluate the application and determine the applicant’s eligibility for staff assistance.

~~(b)(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 deny initial evaluation of an application for staff assistance and close the docket. When an application is denied under the provisions of this paragraph, the Commission staff will notify the applicant of the date on which the application may be resubmitted.

~~(c)(b)~~ Determinations of eligibility will be conditional, pending an examination of the condition of the

applicant's books and records.

(5) Upon making its final determination of eligibility, the Commission staff will notify the applicant in writing as to whether the application is officially accepted or denied. 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) The date of Commission staff's written notification to the utility that the utility is eligible for staff assistance under this rule will be considered the date of official acceptance of the application by the Commission. The official date of filing ~~is~~ will be 30 days after the date of official acceptance of the application. ~~the written notification to the applicant of the Commission's official acceptance of the application.~~

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

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

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

~~(e) Whether the applicant has at least one year of experience in utility operation;~~

~~(f) Whether the applicant 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.~~

~~(7)(8) The Commission will deny the application~~ is deemed denied if the utility does not remit the filing fee, as provided by paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance.

~~(8)(9) An aggrieved applicant may request reconsideration of the application denial~~ within 15 days of receipt of notification that the application is denied. The request ~~which~~ will be decided by the full Commission.

~~(9)(10) The Commission will, 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 consider an allowance for return on working capital using the one-eighth of O & M formula approach.

~~(10)~~~~(11)~~ The Commission will limit the maximum increase in operating revenues to 50 percent of test year operating revenues.

~~(11)~~~~(12)~~ The Commission will vote on a proposed agency action recommendation establishing rates no later than 90 days from the official filing date as established in subsection (6) of this rule.

~~(12)~~~~(13)~~ A substantially affected person may file a petition to protest the Commission's Proposed Agency Action 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 ~~R~~rule 28-106.111, F.A.C.

~~(13)~~~~(14)~~ A petition to protest the Commission's proposed agency action must ~~shall~~ conform to ~~R~~rule 28-106.201, F.A.C.

~~(14)~~~~(15)~~ In the event of protest of the Proposed Agency Action Order by a substantially affected person, the rates established in the Proposed Agency Action Order may be implemented on a temporary basis, subject to refund with interest in accordance with ~~R~~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 ~~R~~rule 25-30.455, F.A.C.

~~(15)~~~~(16)~~ In the event of a protest, the maximum increase established in subsection ~~(10)~~~~(11)~~ of this rule ~~shall~~ no longer applies ~~apply~~.

~~(16)~~~~(17)~~ In the event of a protest of the Commission's Proposed Agency Action Order in a staff assisted alternative rate setting application, the utility must ~~shall~~:

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

(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 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 Order; and,

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

~~(17)~~~~(18)~~ Failure to comply with the dates established in the Order Establishing Procedure, 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.

~~(18)~~(19) In the event of protest of the Commission's Proposed Agency Action Order in a staff assisted alternative rate setting application, the Commission staff will ~~shall~~:

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

(b) Meet all other requirements of the Order Establishing Procedure; and,

(c) Provide to the utility materials to assist the utility in the preparation of its testimony and exhibits. This material will ~~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 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, 8-10-14, 7-1-18, \_\_\_\_\_.*

**25-30.565 Application for Approval of New or Revised Service Availability Policy or Charges.**

(1) An original and one copy of an ~~Each~~ application for a service availability policy or charges must ~~shall~~ be filed with the Office of Commission Clerk. The copy must be clearly labeled "COPY." If the application is e-filed with the Commission Clerk, the utility must file one paper copy, clearly labeled "COPY," with the Commission Clerk within seven calendar days after e-filing. ~~in original and six copies.~~

(2) Upon filing an application for a new or revised service availability charge or policy, the utility must ~~shall~~ provide notice pursuant to Rule 25-30.4345, F.A.C.

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

(4) Each application must ~~shall~~ include the following, if applicable:

(a) A statement describing 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 must ~~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 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 paragraph (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 subsection 25-30.515(8), F.A.C. 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 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 subsection (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 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.~~

~~(5)(6)~~ Each utility must ~~shall~~ demonstrate the appropriateness of the requested service availability charges and conditions.

*Rulemaking Authority 350.127(2), 367.121(1), 367.101 FS. Law Implemented 367.101 FS. History—New 6-14-83, Amended 11-10-86, 11-30-93, 5-29-08\_\_\_\_\_.*