

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Proposed adoption of Rule 25-30.457, F.A.C., Limited Alternative Rate Increase, and Rule 25-30.458, F.A.C., Notice of and Public Information for Application for Limited Alternative Rate Increase. | DOCKET NO. 040246-WS
ORDER NO. PSC-04-0730-NOR-WS
ISSUED: July 29, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
LILA A. JABER
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

NOTICE OF RULEMAKING

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to adopt Rules 25-30.457 and 25-30.458, Florida Administrative Code, relating to limited alternative rate increase and notice of and public information for application for limited alternative rate increase.

The attached Notice of Rulemaking will appear in the August 6, 2004, edition of the Florida Administrative Weekly.

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 or suggestions on the rules must be received by the Director, Division of the Commission Clerk and Administrative Services, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than August 27, 2004.

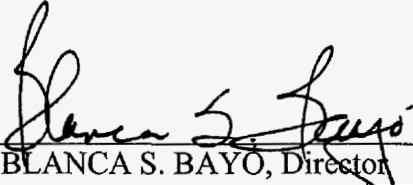
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FPSC-COMMISSION CLERK

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By ORDER of the Florida Public Service Commission this 29th day of July, 2004.



BLANCA S. BAYO, Director
Division of the Commission Clerk
and Administrative Services

(SEAL)

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NOTICE OF PROPOSED RULEMAKING
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 040246-WS

RULE TITLE:	RULE NO.:
Limited Alternative Rate Increase	25-30.457
Notice of and Public Information for Application for	25-30.458

Limited Alternative Rate Increase.

PURPOSE AND EFFECT: To streamline the rate increase process for qualifying small water or wastewater companies.

SUMMARY: The proposed rule will establish an abbreviated procedure for a limited rate increase for small water and wastewater utilities under Section 376.0814, F.S., which should be less costly for utilities and their customers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The rule should make the rate case process more efficient and less time consuming and thus less costly for small utilities, their customers and Commission staff. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 367.0814(9), 367.121(1)(a), FS

LAW IMPLEMENTED: 367.0814, 367.121, 350;123, 367.145(2), FS

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE
SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND

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ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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

THE PERSON TO BE CONTACTED REGARDING THE THESE PROPOSED RULE(S) IS:

Christiana T. Moore, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6098.

THE FULL TEXT OF THESE PROPOSED RULES ARE:

25 30.457 Limited Alternative Rate Increase.

(1) As an alternative to a staff assisted rate case as described in Rules 25-30.455 and 25-30.456, 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 a limited alternative rate increase by submitting a completed application that includes the information required by sections (9) and (10). 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 five copies of the application shall be filed with the Division of the Commission Clerk and Administrative Services.

(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.

(3) Within 30 days of receipt of the completed application, the Division of Economic Regulation shall evaluate the application and determine the petitioner's eligibility for a limited alternative rate increase.

(4) Upon reaching a decision to officially accept or deny the application, the Director of the Division of Economic Regulation 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.

(5) The official date of filing will be 30 days after official acceptance of the application by the Commission.

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

(a) The petitioner has filed all annual reports required by Rule 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.

(7) Any increase in operating revenues approved pursuant to this rule shall be limited to a maximum of 20 percent applied to metered or flat recurring rates of all classes of service.

(8) The Commission shall deny the application if a petitioner 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 of the application.

(9) 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.

(10) 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 application.

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

(11) 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.

(12) A financial or engineering audit of the utility=s financial or engineering books and records shall not be required in conjunction with the application under review.

(13) The application will be approved, denied, or approved with modifications within 90 days from the official filing date as established in subsection (5) above.

(14) In consideration of subsections (12) and (13), the utility agrees to hold any revenue increase granted under the provisions of this rule subject to refund for a period of 15 months after the filing of the utility=s annual report required by section 367.121, F.S., for the year the adjustment in rates was implemented.

(15) 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.

(16) 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, the Commission may order the utility to refund, with interest, the difference to the ratepayers and adjust rates accordingly.

(17) In the event of a protest of the proposed agency action (PAA) order pursuant to Rule 28-106.201, F.A.C., by a substantially affected person other than the utility, unless the PAA Order proposes a rate reduction, the utility may implement the rates established in the PAA Order on a temporary basis 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.

(18) In the event of a protest, the limit on the maximum increase provided in (7) above shall no longer apply.

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

Specific Authority: 350.127(2), 367.0814(9), 367.121(1)(a), F.S.

Law Implemented: 367.0814, 367.121, 350.123, 367.145(2), F.S.

History: New XX/XX/XX.

25 30.458 Notice of and Public Information for Application for Limited Alternative Rate Increase.

(1) This rule applies to all requests for a limited alternative rate increase.

(2) No less than 14 days and no more than 30 days prior to the date of a customer meeting, 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 area 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. The customer meeting will be conducted by the Commission staff no less than 21 days prior to Commission action on the application.

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

- a. The date the notice was issued;
- b. The time, date, location, and purpose of the customer meeting;
- c. A statement that the utility has applied for a limited alternative rate increase and the general reason for doing so;
- d. A statement of the location where copies of the application are available for public inspection during the utility's regular business hours;
- e. A comparison of current rates and charges and the proposed new rates and charges;
- f. The utility's address, telephone number, and regular business hours;
- g. A statement that written comments regarding utility service or the proposed rates and charges should be addressed to the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, and that such comments should identify the docket number assigned to the proceeding;

h. 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;

i. The docket number assigned by the Commission's Division of the Commission Clerk and Administrative Services.

(4) 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.

(5) If the Commission issues a proposed agency action (PAA) order granting a limited alternative rate increase, 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), 367.0814(9), 367.121(1), F.S.

Law Implemented: 367.0814, 367.121, 350.123, F.S.

History: New XX/XX/XX.

NAME OF PERSON ORIGINATING PROPOSED RULES: Troy Rendell

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULES:

Florida Public Service Commission.

DATE PROPOSED RULES APPROVED: July 20, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

January 23, 2004

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant

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must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of the Commission Clerk and Administrative Services at (850) 413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).