

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendment of Rule 25-30.457,
F.A.C., Limited Alternative Rate Increase.

DOCKET NO. 20200044-WS
ORDER NO. PSC-2020-0093-NOR-WS
ISSUED: April 2, 2020

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman
ART GRAHAM
JULIE I. BROWN
DONALD J. POLMANN
ANDREW GILES FAY

NOTICE OF RULEMAKING

BY THE COMMISSION:

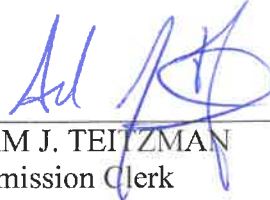
NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has proposed the amendment of Rule 25-30.457, Limited Alternative Rate Increase, Florida Administrative Code, relating to limited alternative rate increase for small water and wastewater utilities.

The attached Notice of Proposed Rule appeared in the April 2, 2020 edition of the Florida Administrative Register.

Requests for hearing on the proposed rule, information regarding the statement of estimated regulatory costs, or proposals for a lower cost regulatory alternative must be provided in writing and received by the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than April 23, 2020.

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By ORDER of the Florida Public Service Commission this 2nd day of April, 2020.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
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

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE:

25-30.457: Limited Alternative Rate Increase

PURPOSE AND EFFECT: The purpose of this rulemaking is to amend the rule to clarify the application requirements for a limited alternative rate increase and to simplify the language to make it more understandable. The effect of this rulemaking will be to make the rule requirements clear to all interested persons. Rule requirements are modified to enable more small utilities to use the limited alternative rate increase process in rate setting.

Docket No. 20200044-WS

SUMMARY: The rule is amended to identify in one subsection all the information that must be contained in the application for limited alternative rate increase. Commission staff will conduct an earnings review of the twelve-month period following the implementation of the revenue increase based on information provided by the utility in a limited alternative rate increase earnings review form. Utilities will no longer be required to provide security for money collected subject to refund or file monthly refund reports with the Commission.

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), FS, and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business and that there would likely be transactional cost savings to the individual and entities, including government entities, required to comply with the rule.

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: Kathryn G.W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6216, kcowdery@psc.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.457 Limited Alternative Rate Increase.

(1) As an alternative to a staff assisted rate case as described in ~~R~~rule 25-30.455, F.A.C., or to staff assistance in alternative rate setting as described in ~~R~~rule 25-30.456, F.A.C., water utilities whose total gross annual operating revenues are \$300,000 or less for water service and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for wastewater service ~~may file with the Office of Commission Clerk an application 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 the information required by subsections (7), (8) and (9) of this rule.~~

(2) The application for limited alternative rate increase must contain the following information:

(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;

(b) The type of business organization under which the utility's operations are conducted;

(c) If the utility is a corporation, the date of incorporation and the names and addresses of all persons who own five percent or more of the utility's stock;

(d) If the utility is not a corporation, the names and addresses of the owners of the business;

(e) A schedule showing the 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;

(f) A schedule showing the current and proposed rates for all classes of customers;

(g) A statement providing the specific basis or bases for the requested rate increase;

(h) If the requested rate increase is based upon the utility's underearning or the utility's expectation to underearn, a statement explaining why the utility is, or is expected to, underearn its authorized rate of return;

(i) 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;

(j) A statement that the utility is currently in compliance with its annual report filing in accordance with Rule 25-30.110(3), F.A.C.;

(k) A statement that the utility has paid all required regulatory assessment fees or is current on any approved regulatory assessment fee payment plan;

(l) A statement that an 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 official date of filing of the application; and

(m) Any additional relevant information in support of the application and reasons why the information should be considered.

(3) Within 30 days of the application's filing date, Commission staff will notify the utility in writing that the application requirements of subsection (2) of this rule have been met or that the requirements of subsection (2) have not been met with an explanation of the application's deficiencies.

~~(2) Within 30 days of receipt of the completed petition, the Commission will evaluate the petition 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) The date of Commission staff's written notification to the utility that the requirements of subsection (2) of this rule have been met will be considered the date of official acceptance by the Commission of the application. The official date of filing is established as will be 30 days after the official acceptance by the Commission of the application date of the written notification to the petitioner of the Commission's acceptance of the petition. The application is deemed denied if the utility does not remit the filing fee as required by paragraph 25-30.020(2)(f), F.A.C., within 30 days after the official acceptance of the application.

~~(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) The Commission will deny the petition if the petitioner does not remit the filing fee, as provided by~~

paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance of the petition.

(7) 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:

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) 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; and,

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

(9) 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.

(5)(10) A financial or engineering audit of the utility's financial or engineering books and records will shall not be required in determining whether to approve or deny the application ~~conjunction with the petition under review.~~

(6)(11) Based upon the criteria contained in subsection (2), the Commission will approve, deny, or approve the application ~~The petition will be approved, denied, or approved with modifications that may include a reduction or an increase in the requested rate increase,~~ within 90 days from the official filing date as established in subsection (4) of this rule.

(7)(12) Any revenue increase granted under the provisions of this rule shall be held subject to refund with interest in accordance with subsection rule 25-30.360(4), 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., for the year the adjustment in rates was implemented. Subsection 25-30.360(6), F.A.C., does not apply to any money collected subject to refund under this subsection.

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

(a) At the end of the twelve-month period, the utility has 90 days to complete and file Form PSC 1025 (03/20), entitled "Limited Alternative Rate Increase Earnings Review," which is incorporated into this rule by reference and is available at [Dep't of State hyperlink].

(b) In the event the utility needs additional time to complete the form, the utility may request an extension of time supported by a statement of good cause that must be filed with Commission staff within seven days prior to the 90-day deadline. "Good cause" means a showing of financial hardship, unforeseen events, or other events outside the control of the utility, but does not include reasons such as management oversight.

(c)(14) If, within 15 months after the filing of a utility's annual report the Commission staff's earnings review demonstrates 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 overearnings, up to the amount held subject to refund, with interest, shall be disposed of for the benefit of the customers. If the Commission staff determines that the utility did not exceed the range of its last authorized return on equity, the revenue increase will no longer be held subject to refund.

(9)(15) In the event of a protest of the pProposed aAgency aAction oOrder is protested pursuant to Rrule 28-106.111, F.A.C., by a substantially affected person other than the utility, the utility must file a staff assisted rate case application pursuant to Rule 25-30.455, F.A.C., within 21 days from the date the protest is filed or the utility's application for a limited alternative rate increase will be deemed withdrawn.

(10) Upon the utility filing a staff assisted rate case application pursuant to subsection (9) of this rule:

(a) unless the Proposed Agency Action Order proposes a rate reduction, Tthe utility may implement the rates established in the pProposed aAgency aAction oOrder on a temporary basis subject to refund with interest in

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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.~~

~~(b)(16) In the event of a protest, the limit on the maximum increase provided in subsection (1) of this rule will shall no longer apply; and~~

~~(c) The application will be processed under Rule 25-30.455, F.A.C.~~

~~(17) If the utility fails to file a staff assisted rate case application within 21 days in the event of a protest, the petition 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, 8-10-14, 7-1-18, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn G.W. Cowdery

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 31, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 45, Number 197, October 9, 2019.