

State of Florida



# Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

## -M-E-M-O-R-A-N-D-U-M-

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COMMISSION CLERK

**DATE:** OCTOBER 9, 2003

**TO:** DIRECTOR, DIVISION OF THE COMMISSION CLERK &  
ADMINISTRATIVE SERVICES (BAYÓ)

**FROM:** OFFICE OF THE GENERAL COUNSEL (CIBULA, GERVASI)  
DIVISION OF ECONOMIC REGULATION (MERCHANT, RENDELL, HEWITT) *CBA*

*smc. PS*  
*res*  
*Walt*  
*08*  
*TRD*  
*PS*

**RE:** DOCKET NO. 030697-WS - PROPOSED ADOPTION OF RULE 25-30.445, F.A.C., GENERAL INFORMATION AND INSTRUCTIONS REQUIRED OF WATER AND WASTEWATER UTILITIES IN APPLICATION FOR LIMITED PROCEEDING, AND RULE 25-30.446, F.A.C., NOTICE OF AND PUBLIC INFORMATION FOR APPLICATION FOR LIMITED PROCEEDING RATE INCREASE.

**AGENDA:** 10/21/03 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

**RULE STATUS:** PROPOSAL MAY BE DEFERRED

**SPECIAL INSTRUCTIONS:** NONE

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\030697.RCM

### CASE BACKGROUND

Pursuant to Section 367.0822, Florida Statutes, the Commission may conduct limited proceedings to consider any water and/or wastewater matter within its jurisdiction, including any matter which requires a utility to adjust its rates. Section 367.0822 requires the Commission to determine the issues to be considered in the limited proceeding and allows the Commission, in its discretion, to expand the scope of the proceeding to include other related matters.

DOCUMENT NUMBER-DATE

09819 OCT-98

FPSC-COMMISSION CLERK

Section 367.0822 is currently the only source of direction to utilities on the limited proceeding procedure. Whenever a utility files for a limited proceeding, staff has to inform the utility as to what information should be filed with the application and in what form. Also, on numerous occasions utilities have contacted staff concerned as to what should be included in their applications. Staff has also encountered cases where utilities file for a limited proceeding, but the utility was ultimately found to be earning within or above the range of its required rate of return.

There is also no specific rule that informs the utility as to the noticing requirements for a limited proceeding. Limited proceeding increases can sometimes be quite substantial, and customers may not find out about the case until the proposed agency action order is issued. By that time, customer involvement is limited to protesting the order.

Staff is recommending that the Commission adopt Rules 25-30.445 and 25-30.446, Florida Administrative Code, to specify the limited proceeding procedure. Rule 25-30.445 would outline the filing requirements for a limited proceeding request. Rule 25-30.446 would set forth the noticing requirements for a limited proceeding application.

A workshop was held on November 1, 2002, to discuss this rule development. Staff allowed interested persons to submit post-workshop comments on the rule development. The Office of Public Counsel was the only entity to submit post-workshop comments. Staff incorporated the post-workshop comments and the comments obtained from the workshop into the recommended rules.

This recommendation was originally scheduled for the September 30, 2003, agenda conference. The recommendation was deferred on staff's request to make clarifications to the rule language. Staff has indicated the changes made from the original recommendation by striking out deleted portions of the rule and redlining the additional language added to the rule.

The Commission has rulemaking authority pursuant to Sections 120.54, 367.0822, and 367.091, Florida Statutes.

DISCUSSION OF ISSUES

**ISSUE 1:** Should the Commission propose the adoption of Rule 25-30.445, Florida Administrative Code, entitled General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding, and Rule 25-30.446, Florida Administrative Code, entitled Notice of and Public Information for Application for Limited Proceeding Rate Increase?

**RECOMMENDATION:** Yes. The Commission should propose the adoption of Rules 25-30.445 and 25-30.446, Florida Administrative Code. (CIBULA, GERVASI, MERCHANT, RENDELL, HEWITT)

**STAFF ANALYSIS:** As explained in the case background, Section 367.0822 is currently the only source of direction to utilities on the limited proceeding procedure. Staff is recommending that the Commission adopt Rules 25-30.445 and 25-30.446 to codify the Commission's filing and noticing requirements for an application for a limited proceeding.

Rule 25-30.445 would set forth the information that must be included in a utility's application for a limited proceeding. Specifically, subsections (1) through (3) of Rule 25-30.445 (pages 6-7 of the attached rule) detail the minimum filing requirements for a limited proceeding application and set forth the format and administrative requirements for the application. Subsection (4) of Rule 25-30.445 (beginning on page 7) would require Class A and B utilities to provide, among other things, a statement as to why the proceeding is being requested; the technical support for the calculations for cost recovery; schedules showing that the utility will earn less than a fair rate of return without a rate increase; a schedule of the current and proposed rates; and supporting schedules for a rate structure change. Subsection (5) of Rule 25-30.445 (beginning on page 11), sets forth the information that a Class C utility must file in an application for a limited proceeding, which is generally the same as the information required from Class A and B utilities, but takes into account the smaller size of a Class C utility.

Subsection (6) of Rule 25-30.445 (beginning on page 12) lists some of the factors the Commission will consider when determining whether the utility should file a general rate case instead of a limited proceeding. These factors include: 1) whether the utility's application includes more than four separate projects for

which it is seeking recovery and the requested increase exceeds 15% 30%; 2) whether the utility has had a rate increase within the last seven years and the requested rate increase exceeds 15% 30%; or 3) whether the application was filed as a result of the complete elimination of either the water or wastewater treatment process and the requested rate increase exceeds 15% 30%. Staff changed the 15% to 30% based on recent comments that indicated that 30% would be a more reasonable figure.

~~Under subsection (7) of the rule (page 13), a utility would have to demonstrate that, without the requested rate increase, the utility will earn less than its authorized rate of return on equity. Subsection (8)(7) (page 13) would require the utility to provide a statement in its application that addresses whether the utility's rate base has declined or whether any expense recovery sought by the utility would be offset by customer growth. Subsection (9)(8) of Rule 25-30.445 (page 13) clarifies that a limited proceeding should not be filed for underearnings in lieu of a general rate case.~~

Rule 25-30.446 would set forth the noticing requirements for an application for a limited proceeding. Subsections (1) through (5) of the rule (pages 14-16), would outline the procedure by which the utility must provide notice to municipalities and counties within the service areas included in the rate request and to the utility's customers. In subsection (6) of Rule 25-30.446 (page 16), staff is recommending that the utility be required to provide customers notice of any customer meeting conducted by staff on the utility's application. Subsection (7) (page 17) would require the utility to provide notice of any Commission hearings that might be conducted in regard to the application. Subsection (8) (page 17) would require the utility to inform its customers about the Commission's decision on the application and any change in rates.

**Statement of Estimated Regulatory Costs:**

The Florida Administrative Procedure Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). A SERC was not prepared for the recommended rule adoption. Staff notes, however, that putting into rule form the required procedure for filing an application for a limited proceeding should reduce the time and possibly the cost to complete a limited proceeding, as companies would be informed up front what information must be filed with the Commission. Staff also believes that any costs caused by

the rule should be minimal and that there should be no significant negative impact on utilities, small businesses, small cities, or small counties.

**ISSUE 2:** Should this docket be closed?

**RECOMMENDATION:** Yes. If no requests for hearing or comments are filed, the rules as proposed should be filed for adoption with the Secretary of State and the docket should be closed. (CIBULA, GERVASI)

**STAFF ANALYSIS:** If no requests for hearing or comments are filed, the rules as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

Attachments:

Rule  
Schedules E-2 and E-12 from Form PSC/ECR 20 (11/93)  
SERC Memorandum

1  
2 25-30.445 General Information and Instructions Required of Water  
3 and Wastewater Utilities in an Application for a Limited  
4 Proceeding.

5 (1) Each applicant for a limited proceeding shall provide the  
6 following general information to the Commission:

7 (a) The name of the applicant as it appears on the  
8 applicant's certificate and the address of the applicant's  
9 principal place of business;

10 (b) The type of business organization under which the  
11 applicant's operations are conducted; if the applicant is a  
12 corporation, the date of incorporation; the names and addresses of  
13 all persons who own 5% or more of the applicant's stock; or the  
14 names and addresses of the owners of the business.

15 (c) The number(s) of the Commission order(s), if any, in  
16 which the Commission most recently considered the applicant's rates  
17 for the system(s) involved.

18 (d) The address within the service area where the application  
19 is available for customer inspection during the time the rate  
20 application is pending.

21 (e) A statement signed by an officer of the utility that the  
22 utility will comply with the noticing requirements in Rule 25-  
23 30.446, F.A.C.

24 (2) In a limited proceeding application:

25  
  
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~~through~~ type are deletions from existing law.

1  
2       (a) Each schedule shall be cross-referenced to identify  
3 related schedules.

4       (b) Except for handwritten official company records, all data  
5 in the petition and application shall be typed.

6       (c) The original and seven copies shall be filed with the  
7 Division of the Commission Clerk and Administrative Services.

8       (3) A filing fee as required in Rule 25-30.020 shall be  
9 submitted at the time of application.

10       (4) The following minimum filing requirements shall be filed  
11 with the utility's application for limited proceeding for a Class  
12 A or B water or wastewater utility:

13       (a) A detailed statement of the reason(s) why the limited  
14 proceeding has been requested.

15       (b) If the limited proceeding is being requested to recover  
16 costs required by a governmental or regulatory agency, provide the  
17 following:

18       1. A copy of any rule, regulation, order or other regulatory  
19 directive that has required or will require the applicant to make  
20 the improvement or the investment for which the applicant seeks  
21 recovery.

22       2. An estimate by a professional engineer, or other person,  
23 knowledgeable in design and construction of water and wastewater  
24 plant, to establish the projected cost of the applicant's  
25

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1 investment and the period of time required for completion of construction.

2  
3 (c) A schedule that provides the specific rate base  
4 components for which the utility seeks recovery. Supporting detail  
5 shall be provided for each item requested, including:

6 1. The actual or projected cost(s);

7 2. The date the item will be or is projected to be placed in  
8 service;

9 3. Any corresponding adjustments that are required as a  
10 result of adding or removing the requested component(s) from rate  
11 base, which may include retirement entries; and

12 4. Any other relevant supporting information.

13 (d) If the utility's application includes a request for  
14 recovery of plant in service, accumulated depreciation and  
15 depreciation expense, supporting detail shall be provided by  
16 primary account as defined by the NARUC Uniform System of Accounts,  
17 in accordance with Rule 25-30.110, F.A.C.

18 (e) A calculation of the weighted average cost of capital  
19 shall be provided for the most recent 12-month period, using the  
20 mid-point of the range of the last authorized rate of return on  
21 equity, the current embedded cost of fixed-rate capital, the actual  
22 cost of short-term debt, the actual cost of variable-cost debt, and  
23 the actual cost of other sources of capital which were used in the  
24 last individual rate proceeding of the utility. If the utility  
25 does not have an authorized rate of return on equity, the utility

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1 shall use the current leverage formula pursuant to s.  
2 367.081(4)(f), F.S.

3  
4 (f) If the utility is requesting recovery of operating  
5 expenses, the following information shall be provided:

- 6 1. A detailed description of the expense(s) requested;  
7 2. The total cost by primary account pursuant to the NARUC  
8 Uniform System of Accounts;  
9 3. Supporting documentation or calculations; and  
10 4. Any allocations that are made between systems, affiliates  
11 or related parties. If allocations are made, submit full detail  
12 that shows the total amount allocated, a description of the basis  
13 of the allocation methodology, the allocation percentage applied to  
14 each allocated cost, and the workpapers supporting the calculation  
15 of the allocation percentages.

16 (g) Calculations for all items that will create cost savings  
17 or revenue impacts from the implementation of the requested cost  
18 recovery items.

19 (h) If the utility includes any other items where  
20 calculations are required, supporting documentation shall be filed  
21 that reflects the calculations or assumptions made.

22 (i) A calculation of the revenue increase including  
23 regulatory assessment fees and income taxes, if appropriate.

24 (j) Annualized revenues for the most recent 12-month period  
25 using the rates in effect at the time the utility files its

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1 application for limited proceeding and a schedule reflecting this  
2 calculation by customer class and meter size.

3  
4 (k) A schedule of current and proposed rates for all classes  
5 of customers.

6 (l) Schedules for the most recent 12-month period showing  
7 that, without any increased rates, the utility will earn below its  
8 authorized rate of return in accordance with s. 367.082, F.S. The  
9 schedules shall consist of a rate base, net operating income and  
10 cost of capital schedule with adjustments to reflect those  
11 consistent with the utility's last rate proceeding.

12 (m) If the limited proceeding is being requested to change  
13 the current rate structure, provide a copy of all workpapers and  
14 calculations used to calculate requested rates and allocations  
15 between each customer class. The test year should be the most  
16 recent 12-month period. In addition, the following schedules,  
17 which are incorporated herein by reference, should be provided from  
18 the Class A Water and/or Wastewater Utilities Accounting, Rate and  
19 Engineering Minimum Filing Requirements (Form PSC/ECR 20 (11/93)).

20 1. Schedule E-2, Revenue Schedule at Test Year Rates - Proof  
21 of Revenue.

22 2. Schedule E-12, Billing Analysis. Only two copies are  
23 required.

24 (n) Revised tariff sheets should not be filed with the  
25 application.

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1  
2       (5) In addition to the requirements stated in subsection (1)  
3 through (3), the following minimum filing requirements shall be  
4 filed with the utility's application for limited proceeding for a  
5 Class C water or wastewater utility:

6       (a) A detailed statement of the reason(s) why the limited  
7 proceeding has been requested.

8       (b) If the limited proceeding is being requested to recover  
9 costs required by a governmental or regulatory agency, provide a  
10 copy of any rule, regulation, order or other regulatory directive  
11 that has required or will require the applicant to make the  
12 improvement or the investment for which the applicant seeks  
13 recovery.

14       (c) A schedule that provides the specific rate base  
15 components for which the utility seeks recovery, if known.  
16 Supporting detail shall be provided for each item requested,  
17 including:

- 18       1. The actual or projected cost(s);  
19       2. The date the item will be or is projected to be placed in  
20 service;  
21       3. Any corresponding adjustments, if known, that are  
22 required as a result of adding or removing the requested  
23 component(s) from rate base, which may include retirement entries;  
24 and  
25       4. Any other relevant supporting information, if known.

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1  
2       (d) If the utility is requesting recovery of operating  
3 expenses, provide an itemized description of the expense(s),  
4 including the cost and any available supporting documentation or  
5 calculations.

6       (e) Provide a description of any known items that will create  
7 cost savings or revenue impacts from the implementation of the  
8 requested cost recovery items.

9       (f) A calculation of the revenue increase including  
10 regulatory assessment fees and income taxes, if applicable.

11       (g) Annualized revenues for the most recent 12-month period  
12 using the rates in effect at the time the utility files its  
13 application for limited proceeding and a schedule reflecting this  
14 calculation by customer class and meter size.

15       (6) In evaluating whether the utility's request is improper  
16 for a limited proceeding, the Commission will consider factors such  
17 as:

18       (a) Whether the utility's filing includes more than 4  
19 separate projects for which recovery is sought and the requested  
20 rate increase exceeds ~~15%~~ 30%. Corresponding adjustments for a  
21 given project are not subject to the above limitation;

22       (b) Whether the utility has not had a rate case in more than  
23 seven years and the requested rate increase exceeds ~~15%~~ 30%; or  
24  
25

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1  
2        (c) Whether the limited proceeding is filed as the result of  
3 the complete elimination of either the water or wastewater  
4 treatment process and the requested rate increase exceeds ~~15%~~ 30%.

5        ~~(7) The utility shall demonstrate in its application that~~  
6 ~~without recovery for the items requested in its application the~~  
7 ~~utility will earn less than its last authorized rate of return on~~  
8 ~~equity. This demonstration shall include a calculation of the~~  
9 ~~utility's achieved rate of return for the most recent 12-month~~  
10 ~~period and shall reflect adjustments consistent with those made in~~  
11 ~~the last rate proceeding for the utility.~~

12        ~~(8)~~ (7)        The utility shall provide a statement in its filing  
13 to the Commission which addresses whether the utility's rate base  
14 has declined or whether any expense recovery sought by the utility  
15 is offset by customer growth since its most recent rate proceeding  
16 or will be offset by future customer growth expected to occur  
17 within one year of the date new rates are implemented.

18        ~~(9)~~ (8)        A limited proceeding application shall not be filed  
19 for underearnings in lieu of a general rate case.

20 Specific Authority: 350.127(2), 367.0822, 367.081, 367.145 (2),  
21 367.121(1)(a), F.S.

22 Law Implemented: 367.0822, 367.121 F.S.

23 History: New XX/XX/XX.  
24  
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1  
2 **25-30.446 Notice of and Public Information for Application for**  
3 **Limited Proceeding Rate Increase**

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

6 (2) Upon filing a petition for limited proceeding rate  
7 increase, the utility shall mail a copy of the petition to the  
8 chief executive officer of the governing body of each municipality  
9 and county within the service areas included in the rate request.  
10 Each copy of the petition shall be accompanied by a statement that  
11 a copy of the minimum filing requirements (MFRs) set forth in Rule  
12 25-30.445, F.A.C., when accepted by the Commission can be obtained  
13 from the petitioner upon request.

14 (3) Within 30 days after the official date of the filing  
15 established by the Commission, the utility shall place a copy of  
16 the petition and the MFRs at its official headquarters and at all  
17 business offices it has in the service areas included in the rate  
18 request. Such copies shall be available for public inspection  
19 during the utility's regular business hours. If the utility does  
20 not have a business office in a service area included in its rate  
21 request, the utility shall place a copy of the petition and the  
22 MFRs at the main county library, the local community center or  
23 other appropriate location which is within or most convenient to  
24 the service area and which is willing to accept and provide public  
25 access to the copies. If the Commission determines that these

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2 locations will not provide adequate access, the Commission will  
3 require that copies of the petition and MFRs be placed at other  
4 specified locations.

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

8 (5)(a) Within 50 days after the official date of filing  
9 established by the Commission, the utility shall provide, in  
10 writing, an initial customer notice to all customers within the  
11 service areas included in the rate request and to all persons in  
12 the same service areas who have filed a written request for service  
13 or who have been provided a written estimate for service within the  
14 12 calendar months prior to the month the petition is filed.

15 (b) The initial customer notice must be approved by  
16 Commission staff prior to distribution and shall include the  
17 following:

18 1. The date the notice is to be issued;

19 2. A statement that the utility has filed a rate request  
20 with the Commission and a statement of the general reasons for the  
21 request;

22 3. A statement of the locations where copies of the MFRs and  
23 petition are available for public inspection and the hours and days  
24 when inspection may be made;

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

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

6 6. A statement that written comments regarding utility  
7 service or the proposed rates and charges should be addressed to  
8 the Director, Division of the Commission Clerk and Administrative  
9 Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida  
10 32399-0870, and that such comments should identify the docket  
11 number assigned to the proceeding;

12 7. A statement that complaints regarding service may be made  
13 to the Commission's Division of Consumer Affairs at the following  
14 toll-free number: 1-800-342-3552; and

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

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

20 (6) No less than 14 days and no more than 30 days prior to  
21 the date of a customer meeting conducted by the Commission staff,  
22 the utility shall provide written notice of the date, time,  
23 location, and purpose of the customer meeting to all customers  
24 within the service areas designated by the Commission staff. The  
25 notice must be approved by Commission staff prior to distribution.

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1  
2 The notice shall be mailed to the out-of-town address of all  
3 customers who have provided the utility with an out-of-town  
4 address.

5 (7) If a proposed agency action order issued in the case is  
6 protested and any hearings are subsequently held, the utility shall  
7 give notice no less than 14 days and no more than 30 days prior to  
8 the date of each hearing held in or near a utility service area  
9 included in the rate request. The utility shall also have  
10 published in a newspaper of general circulation in the area in  
11 which such hearing is to be held a display advertisement stating  
12 the date, time, location, and purpose of the hearing. The notice  
13 must be approved by Commission staff prior to publication.

14 (8) After the Commission issues an order granting or denying  
15 a rate change, the utility shall notify its customers of the order  
16 and any revised rates. The customer notification must be first  
17 approved by Commission staff and shall be distributed no later than  
18 with the first bill containing any revised rates.

19 Specific Authority: 350.127(2), 367.0822, 367.121(1)(a), F.S.

20 Law Implemented: 367.0822, 367.121, F.S.

21 History: New XX/XX/XX.

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Revenue Schedule at Present and Proposed Rates

Florida Public Service Commission

Company:  
 Docket No.:  
 Test Year Ended:  
 Water [ ] or Sewer [ ]

Schedule: E-2  
 Page \_\_\_ of \_\_\_  
 Preparer:

Explanation: Provide a calculation of revenues at present and proposed rates using the billing analysis. Explain any differences between these revenues and booked revenues. If a rate change occurred during the test year, a revenue calculation must be made for each period.

(1) Class/Meter Size	(2) Number Bills	(3) Consumption in MG	(4) Present Rate	(5) Revenues at Present Rates	(6) Proposed Rate	(7) Revenues at Proposed Rates
Residential						
5/8" x 3/4"						
M Gallons						
1" Etc.						
M Gallons Etc.						
Total Residential						
Average Bill						
General Service						
5/8" x 3/4"						
M Gallons						
1" Etc.						
M Gallons Etc.						
Total Gen. Serv.						
Average Bill						
List Other Classes						
As Above						
Totals						
Unbilled Revenues						
Other Revenue						
Misc. Serv. Charges						
Total Revenue						
Booked Revenue						
Difference (Explain)						

Class A Utility Cost of Service Study

Florida Public Service Commission

Company:  
Docket No.:  
Test Year Ended:  
Water [ ] or Sewer [ ]

Schedule: E-12  
Page\_\_of\_\_  
Preparer:

Explanation: All Class A utilities whose service classes include industrial customers, whose utilization exceeds an average of 350,000 GPD, shall provide a fully allocated class cost of service study showing customer, base (commodity), and extra capacity (demand) components under present and proposed rates. This study shall include rate of return by class and load (demand) research studies used in the cost allocation. The analysis shall be based upon the ANWA Manual No. 1 and shall comply with current ANWA procedures and standard industrial practices for utilities providing water and sewer service.

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Public Service Commission  
-M-E-M-O-R-A-N-D-U-M-

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**DATE:** July 22, 2003  
**TO:** Office of the General Counsel (CIBULA)  
**FROM:** Division of Economic Regulation (Hewitt) *CBH* *JDJ*  
**RE:** Statement of Estimated Regulatory Costs for Proposed Rules 25-30.445, F.A.C., General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding; 25-30.446, F.A.C., Notice of and Public Information for Limited Proceeding Rate Increase

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Proposed Rules 25-30.445 and 25-30.446 would define the filing requirements and to specify the noticing requirements for a limited proceeding application by a water or wastewater utility. Currently, when a company files for a limited proceeding, staff has to then inform the company what minimal information must be filed with the application and in what form. Putting in rule form the required procedures and filings should reduce the time and possibly the cost to complete a limited proceeding by informing companies what is necessary before they file.

The Administrative Procedures Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). However, there should be minimal costs and no significant negative impacts on utilities, small businesses, small cities, or small counties. Therefore, a SERC will not be prepared for the proposed rule at this time.

CH:kb

cc: Mary Andrews Bane  
Tricia Merchant  
Hurd Reeves