

ORIGINAL

STATE OF FLORIDA

COMMISSIONERS:  
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OFFICE OF THE GENERAL COUNSEL  
RICHARD D. MELSON  
GENERAL COUNSEL  
(850) 413-6199

Public Service Commission

August 2, 2004

RECEIVED PSC  
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COMMISSION  
CLERK

Mr. Scott Boyd, Executive Director  
Joint Administrative Procedures  
Committee  
Room 120 Holland Building  
Tallahassee, FL 32399-1300

RE: Docket No. 040246-WS – 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.

Dear Mr. Boyd:

Enclosed is an original copy of the following materials concerning the above referenced proposed rules:

1. A copy of the rules.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rules.
4. A federal standards statement.
5. A statement of estimated regulatory costs.

If there are any questions with respect to these rules, please do not hesitate to call me.

Sincerely,

Christiana T. Moore  
Associate General Counsel

CMP \_\_\_\_\_  
COM \_\_\_\_\_  
CTR \_\_\_\_\_  
ECR \_\_\_\_\_  
GCL \_\_\_\_\_  
OPC \_\_\_\_\_  
MMS \_\_\_\_\_  
RCA \_\_\_\_\_  
SCR \_\_\_\_\_  
SEC \_\_\_\_\_  
OTH \_\_\_\_\_

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Enclosures

cc: Division of the Commission Clerk and Administrative Services

DOCUMENT NUMBER - DATE  
08368 AUG -2 04

1 25-30.457 Limited Alternative Rate Increase.

2 (1) As an alternative to a staff assisted rate case as described in Rules 25-30.455  
3 and 25-30.456, F.A.C., water and wastewater utilities whose total gross annual operating  
4 revenues are \$150,000 or less for water service or \$150,000 or less for wastewater service, or  
5 \$300,000 or less on a combined basis, may petition the Commission for a limited alternative  
6 rate increase by submitting a completed application that includes the information required by  
7 sections (9) and (10). In accordance with section 367.0814(6), F.S., a utility that requests staff  
8 assistance waives its right to protest by agreeing to accept the final rates and charges approved  
9 by the Commission unless the final rates and charges would produce less revenue than the  
10 existing rates and charges. The original and five copies of the application shall be filed with  
11 the Division of the Commission Clerk and Administrative Services.

12 (2) Upon filing a petition for a limited alternative rate increase, the utility shall  
13 mail a copy of the petition to the chief executive officer of the governing body of each  
14 municipality and county within the service areas included in the rate request and retain a copy  
15 at the utility's business office.

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

19 (4) Upon reaching a decision to officially accept or deny the application, the  
20 Director of the Division of Economic Regulation shall notify the petitioner by letter. If the  
21 application is accepted, the Director will initiate limited alternative rate setting. If the  
22 application is denied, the letter shall state the reasons for denial.

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

25 (6) A utility described in section (1) will qualify for limited alternative rate setting

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

1 if it satisfies the following criteria:

2 (a) The petitioner has filed all annual reports required by Rule 25-30.110(3),

3 F.A.C.;

4 (b) The petitioner has paid applicable regulatory assessment fees as required by

5 Rule 25-30.120, F.A.C.;

6 (c) The petitioner has at least 1 year's actual experience in utility operation;

7 (d) The petitioner has complied in a timely manner with all Commission decisions

8 affecting water and wastewater utilities for 2 years prior to the filing of the application under

9 review;

10 (e) The utility has not been granted a staff assisted rate case pursuant to Rule 25-

11 30.455, F.A.C., or a staff assisted alternative rate setting pursuant to Rule 25-30.456, F.A.C.,

12 within the 2-year period prior to the receipt of the application under review;

13 (f) The utility has not been granted a limited alternative rate increase pursuant to

14 this rule within the 3-year period prior to the receipt of the application under review;

15 (g) The utility is currently in compliance with any applicable water management

16 district permit conditions concerning rate structure; and

17 (h) A final order in a rate proceeding that established the utility's rate base, capital

18 structure, annual operating expenses and revenues has been issued for the utility within the 7-

19 year period prior to the receipt of the application under review.

20 (7) Any increase in operating revenues approved pursuant to this rule shall be

21 limited to a maximum of 20 percent applied to metered or flat recurring rates of all classes of

22 service.

23 (8) The Commission shall deny the application if a petitioner does not remit the

24 fee, as provided by section 367.145, F.S., and Rule 25-30.020(2)(f), F.A.C., within 30 days

25 after official acceptance of the application.

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

1           (9)    Each petitioner for limited alternative rate increase shall provide the following  
2 general information to the Commission:

3           (a)    The name of the utility as it appears on the utility's certificate and the address  
4 of the utility's principal place of business; and

5           (b)    The type of business organization under which the utility's operations are  
6 conducted: If the petitioner is a corporation, the date of incorporation and the names and  
7 addresses of all persons who own 5 percent or more of the petitioner's stock; if the petitioner is  
8 not a corporation, the names and addresses of the owners of the business.

9           (10) The petitioner shall provide a schedule showing:

10          (a)    Annualized revenues by customer class and meter size for the most recent 12-  
11 month period using the rates in effect at the time the utility files its application.

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

13          (11) The petitioner shall provide a statement that the figures and calculations upon  
14 which the change in rates is based are accurate and that the change will not cause the utility to  
15 exceed its last authorized rate of return on equity.

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

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

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

24          (15) To insure overearnings will not occur due to the implementation of this rate  
25 increase, the Commission will conduct an earnings review of the utility's annual report to

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1 determine any potential overearnings for the year the adjustment in rates was implemented.

2 (16) If, within 15 months after the filing of a utility's annual report required by  
3 section 367.121, F.S., the Commission finds that the utility exceeded the range of its last  
4 authorized rate of return on equity after an adjustment in rates as authorized by this rule was  
5 implemented within the year for which the report was filed, the Commission may order the  
6 utility to refund, with interest, the difference to the ratepayers and adjust rates accordingly.

7 (17) In the event of a protest of the proposed agency action (PAA) order pursuant to  
8 Rule 28-106.201, F.A.C., by a substantially affected person other than the utility, unless the  
9 PAA Order proposes a rate reduction, the utility may implement the rates established in the  
10 PAA Order on a temporary basis upon the utility filing a staff assisted rate case application  
11 pursuant to Rule 25-30.455, F.A.C., within 21 days of the date the protest is filed.

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

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

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

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

19 History: New XX/XX/XX.

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1 25-30.458 Notice of and Public Information for Application for Limited Alternative Rate  
2 Increase.

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

4 (2) No less than 14 days and no more than 30 days prior to the date of a customer  
5 meeting, the utility shall provide, in writing, a customer meeting notice to all customers within  
6 its service area and to all persons in the same service area who have filed a written request for  
7 service or who have been provided a written estimate for service within the 12 calendar  
8 months prior to the month the petition is filed. The customer meeting will be conducted by  
9 the Commission staff no less than 21 days prior to Commission action on the application.

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

12 a. The date the notice was issued;

13 b. The time, date, location, and purpose of the customer meeting;

14 c. A statement that the utility has applied for a limited alternative rate increase  
15 and the general reason for doing so;

16 d. A statement of the location where copies of the application are available for  
17 public inspection during the utility's regular business hours;

18 e. A comparison of current rates and charges and the proposed new rates and  
19 charges;

20 f. The utility's address, telephone number, and regular business hours;

21 g. A statement that written comments regarding utility service or the proposed  
22 rates and charges should be addressed to the Director, Division of the Commission Clerk and  
23 Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0870, and  
24 that such comments should identify the docket number assigned to the proceeding;

25 h. A statement that complaints regarding service may be made to the

1 Commission's Division of Consumer Affairs at the following toll-free number: 1-800-342-  
2 3552;  
3 i. The docket number assigned by the Commission's Division of the Commission  
4 Clerk and Administrative Services.  
5 (4) The customer meeting notice shall be mailed to the out-of-town address of all  
6 customers who have provided the utility with an out-of-town address.  
7 (5) If the Commission issues a proposed agency action (PAA) order granting a  
8 limited alternative rate increase, the utility shall notify its customers of the order and any  
9 revised rates. The customer notification shall be approved by Commission staff and be  
10 distributed no later than with the first bill containing any revised rates.  
11 Specific Authority: 350.127(2), 367.0814(9), 367.121(1), F.S.  
12 Law Implemented: 367.0814, 367.121, 350.123, F.S.  
13 History: New XX/XX/XX.  
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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 Limited Alternative Rate Increase.	25-30.458

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  
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 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).

Rules 25-30.457 and 25-30.458  
Docket No. 040246-WS

STATEMENT OF FACTS AND CIRCUMSTANCES  
JUSTIFYING RULE

The rules are being proposed in an effort to implement more streamlined techniques and procedures to afford Class C water and wastewater utilities rate relief on an expedited basis, while reducing staff time and Commission costs in some limited circumstances.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.



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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**DATE:** May 7, 2004  
**TO:** Office of General Counsel (Moore)  
**FROM:** Division of Economic Regulation (Hewitt) *BA CA KJD JDS*  
**RE:** Statement of Estimated Regulatory Costs for Proposed Rule 25-30.457, F.A.C.,  
Limited Alternative Rate Increase; Docket No. 040246-WS

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### SUMMARY OF THE RULE

The Proposed Rule 25-30.457, F.A.C., Limited Alternative Rate Increase would establish an abbreviated procedure for rate increases for Class C water and wastewater utilities who are otherwise eligible for a staff assisted rate case increase under Section 376.0814, Florida Statutes. Although the proposed rule would streamline the rate increase process for qualifying companies, eligibility criteria must be met, support documentation would be required, and proper notice made. Rate increases would be limited to a maximum of 20 percent, no more frequently than every two years.

The proposed rule should make the rate case process more efficient and less time consuming than a staff assisted rate case (SARC) and thus less costly for small utilities and their customers. New rates would be implemented quicker which would benefit the under-earning utility and the rate increase cap would limit the risk of even higher rates to customers. The total potential savings are unknown.

### ESTIMATED NUMBER OF ENTITIES REQUIRED TO COMPLY AND GENERAL DESCRIPTION OF INDIVIDUALS AFFECTED

There are 123 active Class C water and wastewater companies certified by the Commission. The Class C utilities that are eligible for a SARC and meet the qualifying criteria would be the entities that save time and money with the proposed rule for an alternative process. These Class C's customers would benefit to some degree from reduced rate case expenses.

### RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

The Commission would benefit by not having to bear the cost of a full blown SARC for many Class C rate cases. The proposed rule would eliminate many of the SARC requirements and reduce costs for eligible cases. SARCs require an engineering inspection, an audit of the utility's books, and many hours of staff time, all of which would be eliminated or reduced. Also reduced would be travel costs, meeting costs, and hearing costs. The estimated savings for each avoided SARC would be approximately \$41,580 for Commissioners and staff time spent on

proceedings and travel costs, salaries, any overtime, rental costs for meeting space, attorney, economist, auditing and engineering reviews and analyses, as well as administrative overhead. Offsetting this cost somewhat would be the cost of the Limited Alternative at an estimated cost of \$3,870 for an estimated net savings of \$37,710. The total cost savings would depend on the number of rate proceedings processed under the new rule as opposed to the current SARC process.

#### ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES

There would be a net benefit from reduced rate case expenses to qualifying Class C utilities. The approximate cost to a utility is \$27,000 for a SARC with a hearing and \$3,000 without a hearing, one of which would be saved for every SARC avoided. These costs would be somewhat offset by the filing costs for the Limited Alternative process. Ratepayers, who ultimately pay for rate cases, would also benefit from reduced rate case expenses.

#### IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

There would be a net benefit to Class C utilities that are small businesses. There should be no negative impacts on non-utility small businesses, small cities, or small counties; however, they would benefit somewhat if they are a customer of a Class C utility that utilizes the new process.

cc: Mary Andrews Bane  
Troy Rendell  
Hurd Reeves