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STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

October 20, 2008

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

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COMMISSION
CLERK

RE: Docket No. 080414-WS - Rule Nos. 25-30.455, 25-30.456 and 25-30.457

Dear Mr. Boyd:

Enclosed are the 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,

A handwritten signature in black ink, appearing to read "Rosanne Gervasi".

Rosanne Gervasi
Associate General Counsel

Enclosures
cc: Office of Commission Clerk

080414 JAPC.rg.doc

DOCUMENT NUMBER - DATE
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FPSC-COMMISSION CLERK

1 **25-30.455 Staff Assistance in Rate Cases.**

2 (1) Water and wastewater utilities whose total gross annual operating revenues are
3 ~~\$250,000~~\$150,000 or less for water service or ~~\$250,000~~\$150,000 or less for wastewater
4 service, or ~~\$500,000~~\$300,000 or less on a combined basis, may petition the Commission for
5 staff assistance in rate applications by submitting a completed staff assisted rate case
6 application. In accordance with Section 367.0814(4), F.S., a utility that requests staff
7 assistance waives its right to protest by agreeing to accept the final rates and charges approved
8 by the Commission unless the final rates and charges would produce less revenue than the
9 existing rates and charges. If a utility that chooses to utilize the staff assistance option employs
10 outside experts to assist in developing information for staff or to assist in evaluating staff's
11 schedules and conclusions, the reasonable and prudent expense will be recoverable through
12 the rates developed by staff. A utility that chooses not to exercise the option of staff assistance
13 may file for a rate increase under the provisions of Rule 25-30.443, F.A.C.

14 (2) Upon request, the Division of Economic Regulation shall provide the potential
15 applicant with the appropriate application form, Commission Form PSC/ECR 2-W (Rev.
16 11/86), "Application for Staff Assisted Rate Case", which is incorporated by reference in this
17 rule, and a copy of Rule 25-30.455, F.A.C., governing staff assisted rate cases. The form may
18 be obtained from the Commission's Division of Economic Regulation, 2540 Shumard Oak
19 Boulevard, Tallahassee, Florida 32399-0850.

20 (3) Upon completion of the form, the petitioner may return it to the Office of
21 Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard
22 Tallahassee, Florida 32399-0870.

23 (4) Upon receipt of a completed application, the Office of Commission Clerk shall
24 acknowledge its receipt, assign a docket number for identification, and shall forward the
25 application to a committee comprised of one member each of the Commission's Divisions of

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1 Economic Regulation, Regulatory Compliance and Consumer Assistance, and Office of
2 General Counsel.

3 (5) Within 30 days of receipt of the completed application, the committee shall
4 evaluate the application and determine the petitioner's eligibility for staff assistance.

5 (a) If the Commission has received four or more applications in the previous 30 days;
6 or, if the Commission has 20 or more docketed staff assisted rate cases in active status on the
7 date the application is received, the Commission shall deny initial evaluation of an application
8 for staff assistance and close the docket. When an application is denied under the provisions of
9 this subsection, the applicant shall be notified of the date on which the application may be
10 resubmitted.

11 (b) Initially, determinations of eligibility may be conditional, pending an actual
12 examination of the condition of petitioner's books and records. After an initial determination
13 of eligibility, the Division of Regulatory Compliance and Consumer Assistance committee
14 shall examine the books and records of the utility before making a final determination of
15 eligibility.

16 (c) All recommendations of ineligibility shall be in writing and shall state the
17 deficiencies in the application with reference to guidelines set out in subsection (8) of this
18 rule.

19 (6) Upon reaching a decision to officially accept or deny the application, the Director
20 of the Division of Economic Regulation shall notify the petitioner by letter and initiate staff
21 assistance for the accepted applicant.

22 (7) The official date of filing will be 30 days after the date of the letter notifying the
23 applicant of the official acceptance of the application by the Commission.

24 (8) In arriving at a recommendation whether to grant or deny the petition, the
25 following shall be considered:

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from existing law.

- 1 (a) Whether the petitioner qualifies for staff assistance pursuant to subsection (1) of
2 this rule;
- 3 (b) Whether the petitioner's books and records are organized consistent with Rule 25-
4 30.110, F.A.C., so as to allow commission personnel to verify costs and other relevant factors
5 within the 30-day time frame set out in this rule;
- 6 (c) Whether the petitioner has filed annual reports;
- 7 (d) Whether the petitioner has paid applicable regulatory assessment fees;
- 8 (e) Whether the petitioner has at least 1 year's actual experience in utility operation;
- 9 (f) Whether the petitioner has filed additional relevant information in support of
10 eligibility, together with reasons why the information should be considered;
- 11 (g) Whether the petitioner has complied in a timely manner with all Commission
12 decisions and requests affecting water and wastewater utilities for 2 years prior to the filing of
13 the application under review;
- 14 (h) Whether the utility has applied for a staff assisted rate case within the 2-year period
15 prior to the receipt of the application under review.
- 16 (9) The Commission will deny the application if a utility does not remit the fee as
17 provided by Section 367.145, F.S., and paragraph 25-30.020(2)(f), F.A.C., within 30 days
18 after official acceptance.
- 19 (10) An aggrieved petitioner may request reconsideration which shall be decided by
20 the full Commission.
- 21 (11) A substantially affected person may file a petition to protest the Commission's
22 proposed agency action in a staff assisted rate case within 21 days of issuance of the Notice of
23 Proposed Agency Action as set forth in Rule 25-22.036, F.A.C.
- 24 (12) In the event of a protest of the Commission's Notice of Proposed Agency Action
25 (PAA Order) in a staff assisted rate case, the utility shall:

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1 (a) Provide prefiled direct testimony in accordance with the procedural order in the
2 case. At a minimum, that testimony shall adopt the Commission's PAA Order in the case;

3 (b) Sponsor a witness to support source documentation provided to the Commission
4 staff in its preparation of the staff audit, the staff engineering and accounting report and the
5 staff PAA recommendation in the case;

6 (c) Include in its testimony the necessary factual information to support its position on
7 any issue that it chooses to take a position different than that contained in the Commission's
8 PAA Order;

9 (d) Meet all other requirements of the order establishing procedures.

10 (13) Failure to comply with the dates established in the procedural order, or to file
11 timely a request for extension of time for good cause shown, may result in dismissal of the
12 staff assisted rate case and closure of the docket.

13 (14) In the event of a protest of the Commission's PAA Order in a staff assisted rate
14 case the Commission staff shall:

15 (a) File prefiled direct testimony to explain its analysis in the PAA recommendation. In
16 the event the staff wishes to alter its PAA position on any issue, it shall provide factual
17 testimony to support its changed position.

18 (b) Meet all other requirements of the order establishing procedures;

19 (c) Provide to the utility materials to assist the utility in the preparation of its testimony
20 and exhibits. This material shall consist of an example of testimony filed by a utility in another
21 case, an example of testimony that would support the PAA Order in this case, an example of
22 an exhibit filed in another case, and examples of prehearing statements and briefs filed in
23 other cases.

24 Specific Authority 350.127(2), 367.0814, 367.121 FS.

25 Law Implemented 367.0814 FS.

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from existing law.

1 History—New 12-8-80, Formerly 25-10.180, Amended 11-10-86, 8-26-91, 11-30-93, 1-31-00.

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4 **25-30.456 Staff Assistance in Alternative Rate Setting.**

5 (1) As an alternative to a staff assisted rate case as described in Rule 25-30.455,
6 F.A.C., water and wastewater utilities whose total gross annual operating revenues are
7 \$250,000~~\$150,000~~ or less for water service or \$250,000~~\$150,000~~ or less for wastewater
8 service, or \$500,000~~\$300,000~~ or less on a combined basis, may petition the Commission for
9 staff assistance in alternative rate setting by submitting a completed staff assisted application
10 for alternative rate setting.

11 (2) Upon request, the Division of Economic Regulation shall provide the potential
12 applicant with the application form, PSC/ECR 25 (11/93), titled “Application for Staff
13 Assistance for Alternative Rate Setting” which is incorporated by reference in this rule, and a
14 copy of the rules governing Staff Assistance in Alternative Rate Setting. The form may be
15 obtained from the Commission’s Division of Economic Regulation, 2540 Shumard Oak
16 Boulevard, Tallahassee, Florida 32399-0850.

17 (3) Upon completion of the form, the applicant may return it to the Office of
18 Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard,
19 Tallahassee, Florida 32399-0870.

20 (4) Upon receipt of an application, the Office of Commission Clerk shall acknowledge
21 its receipt, assign a docket number for identification, and shall forward the application to the
22 Commission’s Division of Economic Regulation.

23 (5) Within 30 days of receipt of the completed application, the Division of Economic
24 Regulation shall evaluate the application and determine the petitioner’s eligibility for staff
25 assistance.

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1 (a) If the Commission has received four or more alternative rate setting applications in
2 the previous 30 days; or, if the Commission has 20 or more docketed staff assisted rate cases
3 in active status on the date the application is received, the Commission shall deny initial
4 evaluation of an application for staff assistance and close the docket. When an application is
5 denied under the provisions of this subsection, the applicant shall be notified of the date on
6 which the application may be resubmitted.

7 (b) Determinations of eligibility may be conditional, pending an actual examination of
8 the condition of petitioner's books and records.

9 (c) All recommendations of ineligibility shall be in writing and shall state the
10 deficiencies in the application with reference to guidelines set out in subsection (8) of this
11 rule.

12 (6) Upon reaching a decision to officially accept or deny the application, the Director
13 of the Division of Economic Regulation shall notify the applicant by letter and initiate staff
14 assistance for the accepted applicant.

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

17 (8) In deciding whether to grant or deny the application, the following shall be
18 considered:

19 (a) Whether the applicant qualifies for staff assistance pursuant to subsection (1) of this
20 rule;

21 (b) Whether the applicant has filed annual reports;

22 (c) Whether the applicant has paid applicable regulatory assessment fees;

23 (d) Whether the applicant has at least 1 year's actual experience in utility operation;

24 (e) Whether the applicant has filed additional relevant information in support of
25 eligibility, together with reasons why the information should be considered;

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1 (f) Whether the applicant has made a good faith effort in a timely manner to comply
2 with all Commission decisions and requests affecting water and wastewater utilities for 2
3 years prior to the filing of the application under review;

4 (g) Whether the utility has been granted a staff assisted rate case or alternative rate
5 setting within the 2-year period prior to the receipt of the application under review.

6 (9) The Commission shall deny the application if a utility does not remit the fee, as
7 provided by Section 367.145, F.S., and paragraph 25-30.020(2)(f), F.A.C., within 30 days
8 after official acceptance.

9 (10) An aggrieved applicant may request reconsideration which shall be decided by the
10 full Commission.

11 (11) The Commission shall, for the purposes of determining the amount of rate
12 increase, if any, compare the operation and maintenance expenses (O & M) of the utility to
13 test year operating revenues. The Commission shall consider an allowance for return on
14 working capital using the one-eighth of O & M formula approach.

15 (12) The Commission shall limit the maximum increase in operating revenues to 50
16 percent of test year operating revenues.

17 (13) The Commission shall vote on a proposed agency action (PAA) recommendation
18 establishing rates no later than 90 days from the official filing date as established in subsection
19 25-30.455(7), F.A.C.

20 (14) A substantially affected person may file a petition to protest the Commission's
21 PAA Order regarding a staff assisted alternative rate setting application within 21 days of
22 issuance of the Notice of Proposed Agency Action as set forth in Rule 28-106.201, F.A.C.

23 (15) In the event of protest of the PAA Order by a substantially affected party, the rates
24 established in the PAA Order may be implemented on a temporary basis. At that time the
25 utility may elect to pursue rates set pursuant to the rate base determination provisions of Rule

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1 25-30.455, F.A.C.

2 (16) In the event of a protest the maximum increase established in subsection (13)
3 above shall no longer apply.

4 (17) In the event of a protest of the Commission's PAA Order in a staff assisted
5 alternative rate setting application, the utility shall:

6 (a) Provide prefiled direct testimony in accordance with the procedural order in the
7 case. At a minimum, that testimony shall adopt the Commission's PAA Order in the case;

8 (b) Sponsor a witness to support source documentation provided to the Commission
9 staff in its preparation of the staff engineering and accounting analysis and the staff PAA
10 recommendation in the case;

11 (c) Include in its testimony the necessary factual information to support its position on
12 any issue that it chooses to take a position different than that contained in the Commission's
13 PAA Order;

14 (d) Meet all other requirements of the order establishing procedures.

15 (18) Failure to comply with the dates established in the procedural order, or to timely
16 file a request for extension of time for good cause shown, may result in dismissal of the staff
17 assisted alternative rate setting application and closure of the docket.

18 (19) In the event of protest of the Commission's PAA Order in a staff assisted
19 alternative rate setting application the Commission staff shall:

20 (a) File prefiled direct testimony to explain its analysis in the PAA recommendation. In
21 the event the staff wishes to alter its PAA position on any issue it shall provide factual
22 testimony to support its changed position.

23 (b) Meet all other requirements of the order establishing procedures;

24 (c) Provide to the utility materials to assist the utility in the preparation of its testimony
25 and exhibits. This material shall consist of an example of testimony filed by a utility in another

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1 case, a sample of testimony that would support the PAA Order in this case, an example of an
2 exhibit filed in another case, and examples of prehearing statements and briefs filed in other
3 cases.

4 Specific Authority 350.127(2), 367.0814, 367.121 FS.

5 Law Implemented 367.0814 FS.

6 History—New 11-30-93, Amended 1-31-00.

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9 **25-30.457 Limited Alternative Rate Increase.**

10 (1) As an alternative to a staff assisted rate case as described in Rules 25-30.455 and 25-
11 30.456, F.A.C., water utilities whose total gross annual operating revenues are
12 \$250,000~~\$150,000~~ or less for water service and wastewater utilities whose total gross annual
13 operating revenues are \$250,000~~\$150,000~~ or less for wastewater service may petition the
14 Commission for a limited alternative rate increase of up to 20 percent applied to metered or
15 flat recurring rates of all classes of service by submitting a completed application that includes
16 the information required by subsections (8) and (9). In accordance with Section 367.0814(6),
17 F.S., a utility that requests staff assistance waives its right to protest by agreeing to accept the
18 final rates and charges approved by the Commission unless the final rates and charges would
19 produce less revenue than the existing rates and charges. The original and two copies of the
20 application shall be filed with the Office of Commission Clerk.

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

25 (3) Within 30 days of receipt of the completed application, the Division of Economic

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1 Regulation shall evaluate the application and determine the petitioner's eligibility for a limited
2 alternative rate increase.

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

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

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

11 (a) The petitioner has filed all annual reports required by subsection 25-30.110(3),
12 F.A.C.;

13 (b) The petitioner has paid applicable regulatory assessment fees as required by Rule
14 25-30.120, F.A.C.;

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

16 (d) The petitioner has complied in a timely manner with all Commission decisions
17 affecting water and wastewater utilities for 2 years prior to the filing of the application under
18 review;

19 (e) The utility has not been granted a staff assisted rate case pursuant to Rule 25-
20 30.455, F.A.C., or a staff assisted alternative rate setting pursuant to Rule 25-30.456, F.A.C.,
21 within the 2-year period prior to the receipt of the application under review;

22 (f) The utility has not been granted a limited alternative rate increase pursuant to this
23 rule within the 3-year period prior to the receipt of the application under review;

24 (g) The utility is currently in compliance with any applicable water management
25 district permit conditions concerning rate structure; and

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1 (h) A final order in a rate proceeding that established the utility's rate base, capital
2 structure, annual operating expenses and revenues has been issued for the utility within the 7-
3 year period prior to the receipt of the application under review.

4 (7) The Commission shall deny the application if a petitioner does not remit the fee, as
5 provided by Section 367.145, F.S., and paragraph 25-30.020(2)(f), F.A.C., within 30 days
6 after official acceptance of the application.

7 (8) Each petitioner for limited alternative rate increase shall provide the following
8 general information to the Commission:

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

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

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

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

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

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

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

24 (12) The application will be approved, denied, or approved with modifications within
25 90 days from the official filing date as established in subsection (5) above.

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1 (13) In consideration of subsections (11) and (12), the utility agrees to hold any
2 revenue increase granted under the provisions of this rule subject to refund with interest in
3 accordance with Rule 25-30.360, F.A.C., for a period of 15 months after the filing of the
4 utility's annual report required by Section 367.121, F.S., for the year the adjustment in rates
5 was implemented.

6 (14) To insure overearnings will not occur due to the implementation of this rate
7 increase, the Commission will conduct an earnings review of the utility's annual report to
8 determine any potential overearnings for the year the adjustment in rates was implemented.

9 (15) If, within 15 months after the filing of a utility's annual report required by Section
10 367.121, F.S., the Commission finds that the utility exceeded the range of its last authorized
11 rate of return on equity after an adjustment in rates, as authorized by this rule, was
12 implemented within the year for which the report was filed, such overearnings, up to the
13 amount held subject to refund, with interest, shall be disposed of for the benefit of the
14 customers as provided in Section 367.081(4)(d), F.S.

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

20 (17) In the event of a protest, the limit on the maximum increase provided in
21 subsection (1) above shall no longer apply.

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

25 Specific Authority 350.127(2), 367.0814, 367.121 FS.

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from existing law.

1 Law Implemented 367.0814 FS.

2 History—New 3-15-05.

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Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE

25-30.455: Staff Assistance in Rate Cases

25-30.456: Staff Assistance in Alternative Rate Setting

25-30.457: Limited Alternative Rate Increase

PURPOSE AND EFFECT: To implement the change in 367.0814, FS. The effect of the rule changes will be to allow more utilities to request staff assistance. Docket No. 080414-WS.

SUMMARY: These rules describe the water and wastewater utilities that are eligible to request and receive a staff assisted rate case from the Commission. These rules are being changed to implement the revision to 367.0814, FS. The statute has been changed to raise the level of staff assistance from \$150,000 to \$250,000 for a water or wastewater utility or from \$300,000 to \$500,000 when combined.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There should be minimal costs incurred by the Commission. More utilities will be eligible for staff assistance in rate cases and additional staff time will be required. However, staff time will be offset as less staff time will be spent on utility-sponsored rate cases. Fourteen more water and wastewater utilities will be eligible for staff assistance in rate cases. Their costs will likely decrease and ratepayers of the eligible utilities will potentially see a resulting decrease in rate case expense. There should be no negative impacts on small businesses, small cities, or small counties.

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.

SPECIFIC 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 FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rosanne Gervasi, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6224.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.455 Staff Assistance in Rate Cases.

(1) Water and wastewater utilities whose total gross annual operating revenues are ~~\$250,000~~\$150,000 or less for water service or ~~\$250,000~~\$150,000 or less for wastewater service,

or ~~\$500,000~~~~\$300,000~~ or less on a combined basis, may petition the Commission for staff assistance in rate applications by submitting a completed staff assisted rate case application. In accordance with Section 367.0814(4), 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. If a utility that chooses to utilize the staff assistance option employs outside experts to assist in developing information for staff or to assist in evaluating staff's schedules and conclusions, the reasonable and prudent expense will be recoverable through the rates developed by staff. 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) – (14) No change.

Specific 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.

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 ~~\$250,000~~~~\$150,000~~ or less for water service or ~~\$250,000~~~~\$150,000~~ or less for wastewater service, or ~~\$500,000~~~~\$300,000~~ or less on a combined basis, may petition the Commission for staff assistance in alternative rate setting by submitting a completed staff assisted application for alternative rate setting.

(2) – (19) No change.

Specific Authority 350.127(2), 367.0814, 367.121 FS.

Law Implemented 367.0814 FS.

History–New 11-30-93, Amended 1-31-00.

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 utilities whose total gross annual operating revenues are ~~\$250,000~~\$150,000 or less for water service and wastewater utilities whose total gross annual operating revenues are ~~\$250,000~~\$150,000 or less for wastewater service may 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 submitting a completed application that includes the information required by subsections (8) and (9). 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 two copies of the application shall be filed with the Office of Commission Clerk.

(2) – (18) No change.

Specific Authority 350.127(2), 367.0814, 367.121 FS.

Law Implemented 367.0814 FS.

History–New 3-15-05.

NAME OF PERSON ORIGINATING PROPOSED RULE: Craig Hewitt

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume 34, Number 25, June 20, 2008

STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE

Section 367.0814, F.S., was changed in the 2008 Legislative session to require that staff assistance in ratemaking be offered to water and wastewater utilities that have annual revenues of \$250,000 or less or \$500,000 or less when combined. The rule amendments implement these changes to the eligibility requirements for staff assistance in rate cases.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.



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-

DATE: August 29, 2008
TO: Office of General Counsel (Gervasi)
FROM: Division of Economic Regulation (Hewitt) *CBH* *CB* *M* *1908*
RE: Proposed Amendments of Rule 25-30.55, F.A.C., Staff Assistance in Rate Cases, Rule 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting, and Rule 25-30.457, F.A.C., Limited Alternative Rate Increase

DETAILED DESCRIPTION OF THE PROPOSED RULE

1. Why are the rule amendments being proposed?

These rules implement 367.0814, F. S. which authorizes the Commission to conduct a staff assisted rate case for eligible water and wastewater utilities. The statute was changed to raise the level of eligibility for Staff Assistance in Rate Cases (SARCs) from \$150,000, or less, to \$250,000 in total gross annual operating revenues for a water or wastewater utility or from \$300,000 to \$500,000 in revenues, or less, when combined. The Commission must also submit to the legislature a report every 5 years on the status of the proceedings conducted under the changed statute, including the number of utilities eligible to request staff assistance, the number of proceedings conducted annually for the most recent 5-year period, the associated impact on commission resources, and any other appropriate information. Commission rules must be amended to conform to the latest statute changes.

2. What do the rules do and how do they accomplish the goal?

Rule 25-30.455, F.A.C., Staff Assistance in Rate Cases, defines the eligibility requirements for a water or wastewater utility to have a SARC. A water or wastewater utility must have total gross annual operating revenues of \$150,000 or less, which would be amended to \$250,000 or less, or \$500,000 on a combined basis. The rule establishes procedures for a utility to apply for a SARC and the conditions under which a SARC will be conducted and the time frame for determination of the rendering of assistance.

Rule 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting, defines the eligibility requirements for a water or wastewater utility to petition for a SARC in an alternative rate setting. A water or wastewater utility must have total gross annual operating revenues of \$150,000 or less, which would be amended to \$250,000 or less, or from \$300,000 to \$500,000 on a combined basis. The rule establishes procedure for a utility to apply for an alternative SARC and the conditions under which it will be conducted and the time frame for determination of the rendering of assistance.

Rule 25-30.457, F.A.C., Limited Alternative Rate Increase, allows for a limited alternative procedure to the SARC. A water or wastewater utility must have total gross annual operating revenues of \$150,000 or less, which would be amended to \$250,000 or less, or from \$300,000 to \$500,000 on a combined basis. The rule establishes procedures for a utility to apply for a limited alternative rate increase and the conditions under which it will be conducted and the time frame for determination of the rendering of assistance.

IMPACT ON THE PSC

Incremental costs

There should be minimal costs to implement the proposed rule amendments. More utilities would be eligible for SARCs and rate increase alternatives under the revised rules. There would be additional staff time required to work on SARCs. However, there would be offsetting less time spent by staff on utility sponsored rate cases.

Incremental benefits

There is no direct benefit to the Commission resulting from the implementation of the proposed rule amendments.

WHO BESIDES THE PSC WILL BE AFFECTED BY ADOPTION OF THE PROPOSAL

Utilities

The proposed rule amendments would affect 14 water and 14 wastewater utilities which could participate in the staff assistance program.

Customers

Ratepayers of any of the eligible utilities using the staff assisted program may be responsible for less rate case expense in future rate cases.

Outside business and local governments

There should be no negative impacts on small businesses, small cities, or small counties resulting from an adoption of the above rule amendments.

HOW ARE THE PARTIES ABOVE AFFECTED BY THE ADOPTION OF THE PROPOSAL

Estimated transactional costs to individuals and entities

Utilities

The proposed rule amendments would likely decrease rate case costs of the eligible utilities in Florida.

Customers

Ratepayers of any of the eligible utilities using the staff assisted program may be responsible for less rate case expense in future rate cases.

Outside business including specifically small businesses

Small business would likely experience the same benefit of potentially less rate case expense as residential ratepayers.

Local governments

Local governments would likely experience the same transactional benefits as small businesses and residential ratepayers.

ANY OTHER PERTINENT COMMENTS REGARDING THE APPLICATION OF THE PROPOSED RULE

No other pertinent comments are germane to the proposed rule amendments.

CH:kb

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