

STATE OF FLORIDA

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KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP



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

Public Service Commission

November 18, 2008

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HAND DELIVER

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

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

Dear Mr. Boyd:

The Commission has approved the amendments of Rules 25-30.455, 25-30.456 and 25-30.457, without changes.

We plan to file the rule for adoption on November 26, 2008.

Sincerely,

Handwritten signature of Samantha Cibula.  
Samantha Cibula  
Attorney Supervisor

Enclosure

c: Office of Commission Clerk

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

2

3 25-30.456 Staff Assistance in Alternative Rate Setting.

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

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

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

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

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

25 (a) If the Commission has received four or more alternative rate setting applications in

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

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

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

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

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

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

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

20 |       (b) Whether the applicant has filed annual reports;

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

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

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

25 |       (f) Whether the applicant has made a good faith effort in a timely manner to comply

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1 with all Commission decisions and requests affecting water and wastewater utilities for 2  
2 years prior to the filing of the application under review;

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

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

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

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

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

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

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

22 (15) In the event of protest of the PAA Order by a substantially affected party, the rates  
23 established in the PAA Order may be implemented on a temporary basis. At that time the  
24 utility may elect to pursue rates set pursuant to the rate base determination provisions of Rule  
25 25-30.455, F.A.C.

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

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

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

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

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

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

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

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

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

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

23 (c) Provide to the utility materials to assist the utility in the preparation of its testimony  
24 and exhibits. This material shall consist of an example of testimony filed by a utility in another  
25 case, a sample of testimony that would support the PAA Order in this case, an example of an

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1 exhibit filed in another case, and examples of prehearing statements and briefs filed in other  
2 cases.  
3 Specific Authority 350.127(2), 367.0814, 367.121 FS.  
4 Law Implemented 367.0814 FS.  
5 History—New 11-30-93, Amended 1-31-00.  
6  
7 25-30.457 Limited Alternative Rate Increase.  
8 (1) As an alternative to a staff assisted rate case as described in Rules 25-30.455 and 25-  
9 30.456, F.A.C., water utilities whose total gross annual operating revenues are  
10 ~~\$250,000~~\$150,000 or less for water service and wastewater utilities whose total gross annual  
11 operating revenues are ~~\$250,000~~\$150,000 or less for wastewater service may petition the  
12 Commission for a limited alternative rate increase of up to 20 percent applied to metered or  
13 flat recurring rates of all classes of service by submitting a completed application that includes  
14 the information required by subsections (8) and (9). In accordance with Section 367.0814(6),  
15 F.S., a utility that requests staff assistance waives its right to protest by agreeing to accept the  
16 final rates and charges approved by the Commission unless the final rates and charges would  
17 produce less revenue than the existing rates and charges. The original and two copies of the  
18 application shall be filed with the Office of Commission Clerk.

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

23 (3) 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 a limited  
25 alternative rate increase.

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

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

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

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

11 (b) The petitioner has paid applicable regulatory assessment fees as required by Rule  
12 25-30.120, F.A.C.;

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

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

17 (e) The utility has not been granted a staff assisted rate case pursuant to Rule 25-  
18 30.455, F.A.C., or a staff assisted alternative rate setting pursuant to Rule 25-30.456, F.A.C.,  
19 within the 2-year period prior to the receipt of the application under review;

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

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

24 (h) A final order in a rate proceeding that established the utility's rate base, capital  
25 structure, annual operating expenses and revenues has been issued for the utility within the 7-

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

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

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

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

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

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

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

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

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

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

22 (12) The application will be approved, denied, or approved with modifications within  
23 90 days from the official filing date as established in subsection (5) above.

24 (13) In consideration of subsections (11) and (12), the utility agrees to hold any  
25 revenue increase granted under the provisions of this rule subject to refund with interest in

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1 accordance with Rule 25-30.360, F.A.C., for a period of 15 months after the filing of the  
2 utility's annual report required by Section 367.121, F.S., for the year the adjustment in rates  
3 was implemented.

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

7 (15) If, within 15 months after the filing of a utility's annual report required by Section  
8 367.121, F.S., the Commission finds that the utility exceeded the range of its last authorized  
9 rate of return on equity after an adjustment in rates, as authorized by this rule, was  
10 implemented within the year for which the report was filed, such overearnings, up to the  
11 amount held subject to refund, with interest, shall be disposed of for the benefit of the  
12 customers as provided in Section 367.081(4)(d), F.S.

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

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

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

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

24 Law Implemented 367.0814 FS.

25 History—New 3-15-05.

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