

State of Florida



# Public Service Commission

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**DATE:** April 26, 2013  
**TO:** Ann Cole, Commission Clerk, Office of Commission Clerk  
**FROM:** Kathryn Gale Winter Cowdery, Senior Attorney, Office of the General Counsel  
**RE:** Docket No. 110303-OT

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Please enter the attached document into Docket No. 110303-OT under the title:

“April 25, 2013, Compliance Economic Reviews and certification of completion for Group 2 rules. This Document was published on the Commission’s website on April 26, 2013.”

DOCUMENT NUMBER-DATE

02202 APR 26 2013

FPSC-COMMISSION CLERK

STATE OF FLORIDA



RONALD A. BRISÉ  
CHAIRMAN

Capital Circle Office Center  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
(850) 413-6046

Public Service Commission

April 25, 2013

Mr. Kenneth Plante, Coordinator  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

Hand Delivery

RECEIVED  
2013 APR 25 AM 10:51  
JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE

Re: Compliance Economic Reviews for Group 2 Rules

Dear Mr. Plante:

This letter is the Florida Public Service Commission's written certification required by section 120.745(5)(a)2., Florida Statutes (F.S.), verifying the completion of each compliance economic review for the Group 2 rules identified in the Florida Public Service Commission's enhanced biennial rule review conducted pursuant to section 120.745(2)(a), F.S., and submitted to your office by letter dated November 22, 2011. The compliance economic reviews for the Group 2 rules are appended to this letter as follows:

Attachment A – Rule 25-6.0131 – Regulatory Assessment Fees, Investor-Owned Electric Companies, Municipal Electric Utilities, Rural Electric Cooperatives

Attachment B – Rule 25-6.0423 – Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery

Attachment C – Rule 25-6.043 – Investor-Owned Electric Utility Minimum Filing Requirements; Commission Designee

Attachment D – Rule 25-30.120 – Regulatory Assessment Fees; Water and Wastewater Utilities

Attachment E – Rule 25-30.437 – Financial, Rate and Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase

DOCUMENT NUMBER-DATE

02202 APR 26 2013

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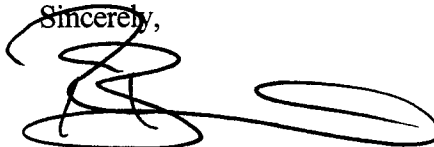
Mr. Kenneth Plante

April 25, 2013

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Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Ronald A. Brisé  
Chairman

KC

Enclosures

Cc (w/enc.): Patricia Nelson, Executive Office of the Governor (via hand delivery)  
Commissioner Lisa Polak Edgar  
Commissioner Art Graham  
Commissioner Eduardo E. Balbis  
Commissioner Julie I. Brown  
Braulio Baez, Executive Director  
S. Curtis Kiser, General Counsel

# **ATTACHMENT A**

**Compliance Economic Review  
for  
Rule 25-6.0131, Florida Administrative Code,  
Regulatory Assessment Fees; Investor-owned Electric  
Companies, Municipal Electric Utilities, Rural Electric  
Cooperatives**

**Florida Public Service Commission**

This document is prepared in response to the requirements  
of Section 120.745, Florida Statutes

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## I. EXECUTIVE SUMMARY

Section 120.745, Florida Statutes (F.S.), became effective in 2011 and requires each agency to complete an enhanced biennial review of all its existing rules and publish a report by December 1, 2011. The statute requires each agency to identify in its report each of its rules which require a compliance economic review. A compliance economic review is defined as a good faith economic analysis which includes a justification for the rule, a statement of estimated regulatory costs for the 5 year period beginning on July 1, 2011, and an explanation of the methodology used to conduct the analysis. A compliance economic review is required for each entire rule that the agency does not plan to repeal by December 31, 2012, was effective on or before November 16, 2010, and is considered by the agency to probably have any of the economic impacts described in Subparagraph 120.541(2)(a), F.S., for the 5 year period beginning on July 1, 2011.

The Florida Public Service Commission (FPSC or Commission) completed its enhanced biennial review report on November 22, 2011. Within the report, the FPSC delineated ten rules it determined were subject to a compliance economic review. Pursuant to Paragraph 120.745(2)(h), F.S., the FPSC divided these rules into Group 1, with the accompanying compliance economic review due May 1, 2012, and Group 2, due May 1, 2013. Rule 25-6.0131, F.A.C., Regulatory Assessment Fees; Investor-owned Electric Companies, Municipal Electric Utilities, Rural Electric Cooperatives (the rule), is one of five rules which were included in the list of Group 2 rules appearing in the FPSC's enhanced biennial review and is the subject of this compliance economic review. The purpose of the rule is to provide for the collection of funds needed to regulate the provision of electricity to Florida customers.

The FPSC prepared and distributed rule impact surveys to each of the electric regulated entities operating in the state, including five electric investor-owned utilities (electric utilities), thirty-four electric municipal utilities (electric municipals), and eighteen rural electric cooperative utilities (electric cooperatives) subject to FPSC jurisdiction. The purpose of the survey was to collect relevant information to complete the required economic analysis. Based on the survey responses and 2011 fee data, our analysis indicates that the regulatory costs associated with the rule are estimated to be approximately \$68 million for the 5 year period beginning on July 1, 2011. The primary benefit of Rule 25-6.0131, F.A.C., is that it achieves the objective of the statutes, including the collection of funds necessary for the regulation of electric utilities' rates, service, and safety, and the regulation of electric municipals' and electric cooperatives' rate structure and safety. Our analysis indicates that the rule will not have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, innovation, or productivity during the 5 year period beginning on July 1, 2011. Small businesses, small counties, and small cities are likely to be positively impacted by the rule during the 5 year period.

## **II. TECHNICAL METHODOLOGY**

Section 120.745(1)(b)2.c, F.S., requires an explanation of the technical methodology used to conduct the analysis required in Section 120.541(2), F.S., for each agency rule for which a compliance economic review is performed. The FPSC conducted a survey of each of the entities subject to the rule using routine regulatory communications. The purpose of the survey was to determine the expected impacts of the rule on the regulated entity, as well as its customers, including small businesses, small counties, and small cities. Each of the regulated entities who must comply with the rule holds the best information regarding the expected future impacts of the rule on their operations and their customers who purchase their services and products.

In that regard, the methodology for conducting the analysis required in Section 120.541(2), F.S., first required the development and distribution of an effective survey instrument. The survey instrument was designed to collect data which would reveal the specific impacts of the rule for the 5 year period beginning on July 1, 2011. The survey instrument for the rule with attached rule language is included as Attachment 1.

The next step was to review the information contained in the survey responses. The information provided by regulated utilities was then compared with information the FPSC has in its records or otherwise available to it, in order to determine whether the responses received appeared to be consistent with similar data or information for recent periods or forecasted periods. The rule has been in effect for 30 years, and some of the information pertaining to the financial impacts of the rule has already been quantified and in some cases provided to the FPSC.

The final step in the analysis involved aggregating the responses of all the respondents in order to determine the rule's quantitative and qualitative impacts as required by the statute. In cases where one or more regulated entities did not provide a response to the survey, it became necessary to rely upon otherwise available information to estimate the rule's impact(s) on that regulated entity(ies) in order to contribute as much information as possible to the rule's impact.

## **III. COMPLIANCE ECONOMIC REVIEW COMPONENTS**

### **A. Rule Justification**

Subparagraph 120.745(1)(b)1., F.S., requires that compliance economic reviews include a justification for the rule which summarizes the rule's benefits. Rule 25-6.0131, F.A.C., requires investor-owned electric utilities to complete FPSC Form PSC/AFD 68 (05/13), entitled "Investor-Owned Electric Utility Regulatory Assessment Fee Return." Municipal electric utilities are required to complete FPSC form PSC/AFD 69 (05/13), entitled "Municipal Electric Utility Regulatory Assessment Fee Return." Rural electric cooperatives are required to complete FPSC form PSC/AFD 70 (05/13), entitled "Rural Electric Cooperative Regulatory Assessment Fee Return." The rule also provides for:



1. Regulatory assessment fees based on a percentage of gross operating revenues from intrastate business, excluding sales for resale between public utilities, including a minimum annual fee assessment.
2. Semi-annual regulatory assessment fee due dates (January 30 and July 30).
3. Allowances for payment extensions for good cause, in accordance with Section 350.113, F.S.
4. Mandatory charges for payment extensions.
5. Mandatory penalties applied to delinquent amounts in accordance with Section 350.113, F.S.
6. Mandatory interest applied to delinquent amounts at a rate of 12 percent per year.

Rule 25-6.0131, F.A.C., which became effective on May 18, 1983, implements Sections 366.14, and 350.113, F.S. Currently, Section 366.14, F.S., states that each public utility (investor-owned electric utility) that supplies electricity shall pay a fee to the FPSC not greater than 0.125 percent of its gross operating revenues derived from intrastate business, excluding sales for resale between public utilities, municipal electric utilities and rural electric cooperatives. This section also states that each municipal electric utility or rural electric cooperative shall pay a fee to the FPSC not greater than 0.015625 percent of its gross operating revenues derived from intrastate business, excluding sales for resale between public utilities, municipal electric utilities and rural electric cooperatives. Section 350.113, F.S., states that all regulatory assessment fees collected by the FPSC must be credited to the Florida Public Service Regulatory Trust Fund to be used in the operation of the Commission as authorized by the Legislature. The fees must be related to the cost of regulating the type of company from which the fee is collected. Since its implementation on May 18, 1983, the rule has been revised numerous times. The most recent revision was filed for adoption with the Department of State on April 17, 2013, and is expected to become effective May 7, 2013. The amendment clarifies the requirements for requesting an extension of the due date for payment of regulatory assessment fees. The amendment does not change the regulatory assessment fee rate or create additional requirements and thus does not affect this compliance economic review analysis.

The FPSC has broad jurisdiction over all investor-owned electric utilities operating in the state, including the regulation of rates and service, as identified in Section 366.04, F.S., as well as safety. In addition, the FPSC has jurisdiction over all electric municipals and electric cooperatives operating in the state with respect to their compliance with rules and regulations governing rate structure and electric safety standards established by the FPSC. The primary benefit of the rule is that it provides for the funding necessary to achieve the broad regulatory objectives of the statutes. The regulatory objectives include the regulation of electric utilities' rates, service, and safety and the regulation of electric municipals' and electric cooperatives' rate structure and safety. The rule implements the specific statutory requirements set forth in Sections 366.14, and 350.113, F.S., in order to achieve the broader statutory objectives of Sections 366.04, F.S.

#### B. Statement of Estimated Regulatory Costs

Subparagraph 120.745(1)(b)2., F.S., requires a compliance economic review to include a statement of estimated regulatory costs as discussed in Subsection 120.541(2), F.S., for the 5 year period beginning on July 1, 2011. The statement of estimated regulatory costs for this compliance economic review of Rule 25-6.0131, F.A.C., consists of Items 1 – 7 below.

## 1. Entities and Individuals Affected

Paragraph 120.541(2)(b), F.S., requires a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule. Currently, five electric utilities, thirty-four municipals, and eighteen electric cooperatives are subject to FPSC jurisdiction in 2013. The FPSC has no knowledge of whether any of these entities will be dissolved or acquired during the 5 year period beginning on July 1, 2011. While there may be other regulated entities which may come into existence during that time period based on growth or other factors, the FPSC has no specific information regarding any potential new regulated entities. The rule indirectly affects electric service customers residing or doing business in the service territories of the regulated entities through the recovery of the rule's regulatory costs in electric service rates and charges.

## 2. Economic Analysis

### a. Regulatory Costs

Subparagraph 120.745(1)(b)2.b. and 120.541(2)(a)3., F.S., require an economic analysis to show whether the rule, directly or indirectly, will have estimated regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate for the 5 year time period beginning on July 1, 2011. Regulatory costs identified in Subsection 120.541(2), F.S., include a good faith estimate of the transactional costs, or the direct costs to comply with the rule, and a good faith estimate of the cost to the agency, or any other state and local government entities, of implementing and enforcing the rule.

Two types of transactional costs associated with the rule were reviewed. The first type of cost specifically identified in the rule is the regulatory assessment fee. The second type of cost is the administrative expense associated with the fee, typically the cost to prepare and file the fee twice per year.

### Electric Utilities

The four largest of the five electric utilities responded to the FPSC survey. Only Tampa Electric Company (TECO) provided a 5 year estimated regulatory assessment fee amount. TECO provided a 5 year regulatory assessment fee amount that is consistent with the current level of regulatory assessment fees remitted to the FPSC by that company. TECO's 2012 regulatory assessment fee remittance was \$1.4 million, and TECO's estimated 5 year regulatory assessment fee amount reported in its survey response was \$7.5 million, approximately five times the 2012 fee remittance.

We considered whether TECO's method of estimating regulatory assessment fee remittance for the 5 year period is reasonable and whether that method should be used to determine the remittances of the other utilities. The future amount of revenues generated by the sales of electricity is difficult to predict because it is subject to many factors such as weather, fuel costs, and the economy. Except for fuel costs, these factors are generally beyond the control of the electric utilities. However,

it is a reasonable assumption to expect that the amount of regulatory assessment fees collected by the FPSC from electric utilities, electric municipals, and electric cooperatives during the 5 year period beginning on July 1, 2011, under the rule should be five times the 2012 regulatory assessment fees. In order to estimate the regulatory assessment fee remittances for all utilities other than TECO for the 5 year period beginning on July 1, 2011, the FPSC utilized each utility's regulatory assessment fee amounts for the most recent year available (CY 2012) and applied such fee amounts to all years in the 5 year period. The estimated fee and administrative expense amounts appear in Table 1 below.

The administrative fee amounts reported are relatively small or immaterial. The average of the administrative expense provided was 0.18 percent of the regulatory assessment fee amount. For purposes of this analysis, the FPSC assumed each non-reporting utility's administrative expense is 0.18 percent of the regulatory fee amount.

As shown in Table 1, the total transactional costs for electric utilities associated with the rule for the 5 year period beginning on July 1, 2011, is estimated to be approximately \$63.279 million.

| <b>Table 1</b>  |                           |          |                        |          |                           |
|---|---------------------------|----------|------------------------|----------|---------------------------|
| <b>Electric Utility Estimated 5 Year Transactional Costs - Rule 25-6.0131, F.A.C.</b> |                           |          |                        |          |                           |
| Electric Utility  | Regulatory Assessment Fee | U or F * | Administrative Expense | U or F * | Total Transactional Costs |
| Florida Power & Light Company   | \$35,300,000              | F        | \$10,000               | U        | \$35,310,000              |
| Florida Public Utilities Company  | \$314,000                 | F        | \$600                  | F        | \$314,600                 |
| Gulf Power Company  | \$4,500,000               | F        | \$20,000               | U        | \$4,520,000               |
| Progress Energy Florida, Inc.   | \$15,600,000              | F        | \$28,100               | U        | \$15,628,100              |
| Tampa Electric Company  | \$7,500,000               | U        | \$5,800                | U        | \$7,505,800               |
| <b>Total, Electric Utilities</b>  | <b>\$63,214,000</b>       | <b>F</b> | <b>\$64,500</b>        | <b>F</b> | <b>\$63,278,500</b>       |
| * U = utility estimated; F = FPSC estimated   |                           |          |                        |          |                           |

#### Electric Municipals and Electric Cooperatives

One electric municipal and two electric cooperatives responded to the FPSC survey. The City of Lakeland reported expected total regulatory assessment fees of \$221,000 for the five year period and negligible administrative costs. Seminole Electric Cooperative, Inc. reported the level of expected regulatory assessment fees to be \$125 for the five year period with total administrative costs of \$35 for the same period. Sumter Electric Cooperative, Inc. reported expected total regulatory assessment fees of \$258,000, but did not provide any estimate of additional administrative costs.

The total electric municipal and electric cooperative regulatory assessment fees remitted in 2012 according to FPSC records was \$925,000. Applying the assumption for these electric entities

that future revenue will mirror current revenue, the total regulatory assessment fee amount for the 5 year period for such entities is \$4.625 million. Estimated administrative costs are based on the assumption that the administrative costs for non-reporting electric municipals and cooperatives is similar to the \$7 annual cost reported by Seminole Electric Cooperative, Inc. The estimated total 5 year administrative costs for all such regulated entities is \$1,820. Thus, the total transaction costs for the electric municipals and electric cooperatives for the 5 year period is estimated to be approximately \$4.627 million.

Based on the above, the estimated total transactional costs associated with compliance with the rule for electric utilities, electric municipals, and electric cooperatives is approximately \$67.906 million for the 5 year period beginning on July 1, 2011.

The cost to the FPSC to implement and enforce the rule based on a good faith estimate for the 5 year period beginning on July 1, 2011, is \$92,202, as discussed in III.B.3. (Costs to Governmental Entities) below. Other state and local government agencies are not impacted by the rule.

Based on the above analysis, the total regulatory costs associated with the rule including both transactional costs and costs to the agency, is estimated to be approximately \$68 million for the 5 year period beginning on July 1, 2011. Thus, our economic analysis indicates the rule directly or indirectly is likely to result in regulatory costs in excess of \$1 million for the 5 year period beginning on July 1, 2011.

#### b. Economic Growth, Jobs, and Investment

Section 120.745 and Subparagraph 120.541(2)(a)1., F.S., require each compliance economic review to include an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years beginning on July 1, 2011. The FPSC survey of electric utilities, electric municipals, and electric cooperatives requested information responsive to this requirement for the rule for the 5 year period beginning on July 1, 2011, for their specific service territories.

The electric utilities, electric municipals and electric cooperatives responded in Question 6 that the rule's impact on economic growth, private sector job creation or employment, and private sector investment was either unknown or none.

Assessing the adverse impacts implies a weighing of the costs and the benefits of the rule. As discussed in III.B.2.a., the utilities' regulatory costs are estimated to be \$67.906 million over the 5 year period. These costs are passed through to the ratepayers of the electric utilities, electric municipals, and electric cooperatives. The primary benefit of Rule 25-6.0131, F.A.C., is that it achieves the statutory objectives, including the collection of funds necessary for the regulation of electric utilities' rates, service, and safety and the regulation of electric municipals' and electric cooperatives' rate structure and safety.

The economic benefits of stable and accurate rates, adequate service, and enforcement of safety standards are not easily quantified. The rule provides the FPSC with the financial resources to

regulate the rates, service, and safety for electric utilities as well as the rate structure and safety of electric municipals and electric cooperatives. Considering the cost and benefits identified above, the benefits of the rule outweigh the cost of the rule. Fair and reasonable utility rates and safe electric distribution service support, rather than hinder, economic growth, employment, and investment. In conclusion, there are no known adverse impacts on economic growth, private sector job creation or employment, or private sector investment associated with the rule.

c. Business Competitiveness

Subparagraphs 120.745(1)(b)2. and 120.541(2)(a)2., F.S., require each compliance economic review to include an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate over the 5 year period beginning on July 1, 2011. The FPSC survey of investor-owned electric utilities and electric municipal and cooperative utilities requested information responsive to this requirement for the rule for the 5 year period beginning on July 1, 2011, for their specific service territories.

The electric utilities, electric municipals and electric cooperatives responded in Question 7 that the rule's impact on business competitiveness, productivity, and innovation was either unknown or none.

In considering the impact of the rule on business competitiveness relative to other states, we note that the National Association of Regulatory Utility Commissioners indicates that no state-to-state comparison of electric regulatory assessment fees has been conducted. Many states other than Florida assess regulatory fees to the regulated industries under their jurisdiction, but the details of the funding methods vary. For many states, the regulatory fee is a single rate or percentage assessed across all regulated industries, including electric, gas, telecommunications, water and wastewater, etc. Of course, this often can and does result in cross subsidies from one industry to another in the support of commission operations. Some commissions' operations are funded by the states' general revenue funds rather than specified commission trust funds. However, all states must support their commission operations through regulatory assessment fees, taxes, or other sources of revenue generated from the public.

In contrast to many states, Florida has established industry specific regulatory assessment fees in order to closely match the actual cost of regulating the industry. The larger question to be addressed is whether Florida's electric regulatory assessment fees, relative to the fees and/or taxes assessed by other states, are expected to reduce business competitiveness in Florida. Florida's regulatory assessment fees are 0.072 percent of gross operating revenue for investor-owned electric utilities and 0.015625 percent of gross operating revenue for electric municipals and electric cooperatives. Other states must also collect fees to support their electric regulatory operations. Given these considerations and the critical importance of electric regulation to businesses operating in Florida, it is unlikely that the rule will directly or indirectly have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate over the 5 year period beginning on July 1, 2011.

### 3. Costs to Governmental Entities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(c), F.S., require a compliance economic review to include a good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the rule, and any anticipated effect on state or local revenues. In order to provide a good faith estimate of the rule's cost to the agency, the estimated annual number of hours dedicated to implementing and enforcing the rule for each employee class was multiplied by each class's labor rate, and the resulting costs were aggregated for all employee classifications. Based on this analysis, the estimated cost to the FPSC to implement and enforce the rule is \$92,202 for the 5 year period beginning on July 1, 2011. Other state and local government agencies are not impacted by the rule.

The FPSC's estimated costs allow for the collection of funds which are used by the agency to achieve the benefits of the rule identified in III.A., above. These benefits include the regulation of rates, service, and safety of investor-owned electric utilities as well as the rate structure and safety of electric municipals and electric cooperatives as set forth in Section 366.04, F.S.

### 4. Transactional Costs Incurred by Individuals and Entities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(d), F.S., require a compliance economic review to include a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the rule. Estimated transactional costs associated with the rule were identified in section III.B.2., above and include the regulatory assessment fees as well as the administrative costs to prepare and file these fees. Transactional costs to other individuals and entities are estimated to be negligible. Therefore, the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the rule, is estimated to be \$67.906 million for the 5 year time period beginning on July 1, 2011.

### 5. Impacts on Small Businesses, Small Counties, and Small Cities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(e), F.S., require a compliance economic review to include an analysis of the impact of the rule on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined in Section 120.52, F.S. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses.

The electric utilities, electric municipals and electric cooperatives responding to the FPSC survey questions regarding small business, small county, and small city impacts of the rule for the 5 year period beginning on July 1, 2011, stated that the impacts were unknown, none or negligible.

The estimated 5 year regulatory cost associated with the rule identified in the prior section (\$68 million) are costs which will be largely passed through, at some point in time, to the ratepayers of the electric utilities, electric municipals, and electric cooperatives. The state regulatory costs to small businesses, small counties, and small cities support fair and reasonable electric rates and charges and safe and adequate electric service which, in turn, support growth, employment, and investment. In

general, small businesses can typically expect to locate and maintain a presence in areas with fair and reasonable electric rates and charges and safe and adequate electric service. Conversely, unregulated electric rates and service can be expected to be a deterrent to businesses, and could have negative impacts to growth, employment, and investment. Considering the cost and benefits above, Rule 25-6.0131, F.A.C., is likely to have a positive impact on small businesses, small counties, and small cities during the 5 year period beginning on July 1, 2011.

6. Additional Information

Subparagraphs 120.745(1)(b)2. and 120.541(2)(f), F.S., require a compliance economic review to include any additional information that the agency determines may be useful. No additional useful information has been identified regarding the estimated regulatory costs of Rule 25-6.0131, F.A.C.

7. Alternatives

Subparagraphs 120.745(1)(b)2. and 120.541(2)(g), F.S., require a compliance economic review to include a description of any regulatory alternatives submitted under Paragraph 120.541(1)(a), F.S., and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the rule. No regulatory alternatives have been submitted pursuant to Paragraph 120.541(1)(a), F.S.

Attachments: Survey on Rule 25-6.0131, F.A.C., with attached rule

COMMISSIONERS:  
RONALD A. BRISÉ, CHAIRMAN  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

STATE OF FLORIDA



MARSHALL WILLIS, DIRECTOR  
DIVISION OF ACCOUNTING AND FINANCE  
(850) 413-6900

## Public Service Commission

November 21, 2012

To: Investor-Owned Electric Utilities, Municipal Electric Utilities, and Rural Electric Cooperatives

Re: Industry survey for legislative review of agency rules in effect on or before November 16, 2010  
Docket No. 110303-OT

To whom this may concern:

Please see attached staff's survey questions. Your timely response to these survey questions regarding Rule 25-6.0131, Florida Administrative Code (F.A.C.) will be important to complete the Commission's Compliance Economic Review required by Subsection 120.745(5), Florida Statutes. All responses should be filed in Docket No. 110303-OT by 5:00 p.m., December 20, 2012, and addressed to:

John Slemkewicz  
c/o Ann Cole  
Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

If you have any questions, please contact John Slemkewicz at (850) 413-6420 or [jslemkew@psc.state.fl.us](mailto:jslemkew@psc.state.fl.us). Thank you for your assistance.

Sincerely,

Andrew L. Maurey  
Bureau Chief, Surveillance and Rate Filings  
Division of Accounting & Finance



**Rule 25-6.0131, F.A.C. - Survey Questions**

The following survey questions apply to **Rule 25-6.0131, F.A.C, Regulatory Assessment Fees**. The Company's response data to these survey questions should be provided for the entire rule, unless the response data is available by rule section, in which case we request the response data be provided by rule section. Please present data in annualized format, if possible, and all cost or benefit dollar estimates should be stated in nominal terms. Please indicate whether the data is actual or projected. Relevant definitions are attached.

1. What are the Company's estimated transactional costs (as defined in Subparagraph 120.541(2)(d), F.S.) resulting from the Company's compliance with Rule 25-6.0131, F.A.C., for the five year period beginning July 1, 2011?
  - a. Please identify regulatory assessment fees separately from all other transactional costs required to comply with the rule.
2. Of the costs provided in response to question 1 above, which, if any, would be incurred by the Company if Rule 25-6.0131, F.A.C., were not in effect?
3. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on small businesses (as defined by Section 288.703, F.S.) located in the Company's service territory, resulting from the implementation of 25-6.0131, F.A.C., for the five year period beginning July 1, 2011?
4. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on small counties and small cities (as defined in Section 120.52, F.S.) located in the Company's service territory, resulting from the implementation of 25-6.0131, F.A.C., for the five year period beginning July 1, 2011?
5. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on entities located in the Company's service territory other than those specifically identified in questions 3 and 4, resulting from the implementation of 25-6.0131, F.A.C., for the five year period beginning July 1, 2011?
6. What does the Company believe is the expected impact of Rule 25-6.0131, F.A.C., on economic growth, private sector job creation or employment, and private sector investment for the five year period beginning July 1, 2011 in the Company's service territory?
7. What does the Company believe is the expected impact of Rule 25-6.0131, F.A.C., on business competitiveness, productivity, and innovation, including the ability of persons doing business in the Company's service territory to compete with persons doing business in states other than Florida or other domestic markets for the five year period beginning July 1, 2011?
8. What does the Company believe are the benefits of Rule 25-6.0131, F.A.C.?

**25-6.0131 Regulatory Assessment Fees; Investor-owned Electric Companies, Municipal Electric Utilities, Rural Electric Cooperatives.**

(1) As applicable and as provided in Section 350.113, F.S., each company, utility, or cooperative shall remit to the Commission a fee based upon its gross operating revenue. This fee shall be referred to as a regulatory assessment fee. Regardless of the gross operating revenue of a company, a minimum annual regulatory assessment fee of \$25 shall be imposed.

(a) Each investor-owned electric company shall pay a regulatory assessment fee in the amount of .00072 of gross operating revenues derived from intrastate business, excluding sales for resale between public utilities, municipal electric utilities, and rural electric cooperatives or any combination thereof.

(b) Each municipal electric utility and rural electric cooperative shall pay a regulatory assessment fee in the amount of 0.00015625 of its gross operating revenues derived from intrastate business, excluding sales for resale between public utilities, municipal electric utilities, and rural cooperatives or any combination thereof.

(2) Regulatory assessment fees are due each January 30 for the preceding period or any part of the period from July 1 until December 31, and on July 30 for the preceding period or any part of the period from January 1 until June 30.

(3) If the due date falls on a Saturday, Sunday, or a holiday, the due date is extended to the next business day. If the fees are sent by registered mail, the date of the registration is the United States Postal Service's postmark date. If the fees are sent by certified mail and the receipt is postmarked by a postal employee, the date on the receipt is the United States Postal Service's postmark date. The postmarked certified mail receipt is evidence that the fees were delivered. Regulatory assessment fees are considered paid on the date they are postmarked by the United States Postal Service or received and logged in by the Commission's Division of Administrative Services Tallahassee. Fees are considered timely paid if properly addressed, with sufficient postage and postmarked no later than the due date.

(4) Commission Form PSC/ECR 68 (01/99), entitled "Investor-Owned Electric Utility Regulatory Assessment Fee Return"; Form PSC/ECR 69 (07/96), entitled "Municipal Electric Utility Regulatory Assessment Fee Return"; and Form PSC/ECR 70 (07/96), entitled "Rural Electric Cooperative Regulatory Assessment Fee Return" are incorporated into this rule by reference and may be obtained from the Commission's Division of Administrative Services. The failure of a utility to receive a return form shall not excuse the utility from its obligation to timely remit the regulatory assessment fees.

(5) Each company, utility, or cooperative shall have up to and including the due date in which to:

(a) Remit the total amount of its fee; or

(b) Remit an amount which the company, utility, or cooperative estimates is its full fee.

(6) Where the company, utility, or cooperative remits less than its full fee, the remainder of the full fee shall be due on or before the 30th day from the due date and shall, where the amount remitted was less than 90 percent of the total regulatory assessment fee, include interest as provided by paragraph (8)(b) of this rule.

(7) A company may request from the Division of Administrative Services a 30-day extension of its due date for payment of regulatory assessment fees or for filing its return form.

(a) The request for extension must be written and accompanied by a statement of good cause.

(b) The request for extension must be received by the Division of Administrative Services at least two weeks before the due date.

(c) Where a company, utility, or cooperative receives an extension of its due date pursuant to this rule, then the entity shall remit a charge in addition to the regulatory assessment fee, as set out in Section 350.113, F.S.

(8) The delinquency of any amount due to the Commission from the company, utility, or cooperative pursuant to the provisions of Section 350.113, F.S., and this rule, begins with the first calendar day after any date established as the due date either by operation of this rule or by an extension pursuant to this rule.

(a) A penalty, as set out in Section 350.113, F.S., shall apply to any such delinquent amounts.

(b) Interest at the rate of 12 percent per annum shall apply to any such delinquent amounts.

*Specific Authority 350.127(2) FS. Law Implemented 350.113, 366.14 FS. History—New 5-18-83, Amended 2-9-84, Formerly 25-6.131, Amended 6-18-86, 10-16-86, 3-7-89, 2-19-92, 7-7-96, 1-1-99.*

**Excerpts from Florida Statutes**

**120.541 Statement of estimated regulatory costs.—**

...  
(2)(d) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.

**288.703 Definitions. —** As used in ss. 288.702-288.706, the term:

...  
(6) "Small business" means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

**120.52 Definitions. —** As used in this act:

...  
(18) "Small city" means any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census.  
(19) "Small county" means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

## **ATTACHMENT B**

**Compliance Economic Review  
for  
Rule 25-6.0423, Florida Administrative Code,  
Nuclear or Integrated Gasification Combined Cycle Power  
Plant Cost Recovery**

**Florida Public Service Commission**

This document is prepared in response to the requirements  
of Section 120.745, Florida Statutes

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Attachment 1: Survey on Rule 25-6.0423, F.A.C., with attached rule

## I. EXECUTIVE SUMMARY

Section 120.745, Florida Statutes (F.S.), became effective in 2011 and requires each agency to complete an enhanced biennial review of all of its existing rules and publish a report by December 1, 2011. The statute requires each agency to identify in its report each of its rules which require a compliance economic review. A compliance economic review is defined as a good faith economic analysis which includes a justification for the rule, a statement of estimated regulatory costs for the 5 year period beginning on July 1, 2011, and an explanation of the methodology used to conduct the analysis. A compliance economic review is required for each rule that the agency does not plan to repeal by December 31, 2012, was effective on or before November 16, 2010, and is considered by the agency to probably have any of the economic impacts described in Subparagraph 120.541(2)(a), F.S., for the 5 year period beginning on July 1, 2011.

The Florida Public Service Commission (FPSC or Commission) completed its enhanced biennial review report on November 22, 2011. Within the report, the FPSC delineated ten rules it determined were subject to a compliance economic review. Pursuant to Paragraph 120.745(2)(h), F.S., the FPSC divided these rules into Group 1, with the accompanying compliance economic review due May 1, 2012, and Group 2, due May 1, 2013. Rule 25-6.0423, F.A.C., Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery (the rule), is one of five rules included in Group 2 and is the subject of this compliance economic review. The purpose of the rule is to implement Section 366.93, F.S., by establishing alternative cost recovery mechanisms for costs incurred in the siting, design, licensing, and construction of nuclear or integrated gasification combined cycle (IGCC) power plants, allowing for the recovery in rates of all such prudently incurred costs in order to promote electric utility investment in nuclear or IGCC power plants.

The FPSC prepared and distributed rule impact surveys to each of the electric investor-owned utilities (IOUs) operating in the state in order to collect relevant information to complete the required economic analysis. The electric IOUs are Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (PEF), Gulf Power Company (Gulf), Tampa Electric Company (TECO), and Florida Public Utilities Company (FPUC).

Based on the survey responses, our analysis indicates that the regulatory costs associated with Rule 25-6.0423, F.A.C., are estimated to be \$29.1 million for the 5 year period beginning on July 1, 2011. The primary benefit of the rule is that it achieves the statutory objectives of establishing an alternative mechanism for the recovery of costs incurred in the siting, design, licensing, and construction of nuclear or IGCC power plants, and, promotes utility investment in nuclear or IGCC power plants and allows for the recovery in rates of all prudently incurred costs, as set forth in Section 366.93, F.S. Our analysis indicates that the rule is likely to have a positive impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, innovation, or productivity during the 5 year period. Small businesses, small counties, and small cities will not be adversely impacted by the rule during the 5 year period.

## **II. TECHNICAL METHODOLOGY**

Section 120.745(1)(b)2.c., F.S., requires an explanation of the technical methodology used to conduct the analysis required in Section 120.541(2), F.S., for each agency rule for which a compliance economic review is performed. The FPSC conducted a survey of the five electric IOUs subject to Rule 25-6.0423, F.A.C., using routine regulatory communications. The purpose of the survey was to determine the expected impacts of the rule on each electric IOU and its customers, including small businesses, small counties, and small cities. Each electric IOU which must comply with the rule holds the best information regarding the expected future impacts of the rule on its operations and its customers who purchase the electric IOU's services and products. Thus, the analysis required the design of a survey instrument to collect data revealing the specific impacts of the rule for the 5 year period beginning on July 1, 2011, including the transactional costs. The survey instrument for the rule with attached rule language is included as Attachment 1.

The electric IOUs' survey responses were aggregated in order to determine the rule's quantitative and qualitative impacts as required by the statute. Performing this step is dependent upon receiving reasonably complete responses from the IOUs subject to the rule. Though only two electric IOUs are presently pursuing cost recovery under Rule 25-6.0423, F.A.C., surveys were sent to all electric IOUs to give them the opportunity to respond since the rule would apply to those utilities should they pursue development of a nuclear or IGCC power plant in the future. Survey responses were received from FPL, PEF, Gulf and TECO. The responses considered collectively provide a general cross-industry perspective of the impact of the rule.

## **III. COMPLIANCE ECONOMIC REVIEW COMPONENTS**

### **A. Rule Justification**

Subparagraph 120.745(1)(b)1., F.S., requires each compliance economic review to include a justification for the rule which summarizes the rule's benefits. Rule 25-6.0423, F.A.C., became effective April 8, 2007. At that time, the rule addressed alternative cost recovery solely for nuclear power plants, as required by Section 366.93, F.S. The rule was amended February 3, 2008, to implement amendments to Section 366.93, F.S., to promote electric utility investment in IGCC power plants by establishing cost recovery mechanisms that allow for the recovery in rates of all costs prudently incurred in the siting, design, licensing, and construction of an IGCC power plant. The rule includes the following:

- Definitions of types of power plants and costs applicable to the rule.
- Descriptions of specific types of costs, including: site selection costs, pre-construction costs, and construction costs.
- Descriptions of how specific types of costs shall be treated, including: site selection costs, pre-construction costs, and the carrying costs on construction cost balance.
- Description of the procedure the utility must follow to petition the Commission for cost recovery for each type of cost before the plant is placed into commercial service, including a description of the required filings and the annual filing dates for actual and projected costs.



- Description of the methodology the Commission will use to monitor costs and the standard the Commission shall apply in making its determination of reasonableness and prudence.
- Description of the types of costs the utility is allowed to recover in the event the utility elects not to complete or is precluded from completing construction of the power plant and the manner in which such costs may be recovered.
- Requirements the utility must follow to petition the Commission for a base rate increase once the operating units or systems associated with the power plant and the power plant itself are placed in commercial service.
- Description of how certain costs in the required filings shall be calculated.
- Requirement that the utility provide all parties with reasonable and contemporaneous access to all documents relied upon in its filings.
- Various reporting requirements in conjunction with utilities' filing of annual reports pursuant to Rule 25-6.135, F.A.C.

The rule implements Section 366.93, F.S., which states that the FPSC shall establish, by rule, alternative cost recovery mechanisms for costs incurred in the siting, design, licensing, and construction of a nuclear power plant, including new, expanded, or relocated electrical transmission lines and facilities that are necessary thereto, or of an IGCC power plant. Section 366.93, F.S. requires that such mechanisms be designed to promote utility investment in nuclear or IGCC power plants and allow for the recovery in rates of all prudently incurred costs. Section 366.93, F.S., further prescribes how such alternative recovery mechanisms shall be designed and what such mechanisms shall include, though the statute does not limit the inclusion of other mechanisms to accomplish the statute. The timing of cost recovery is delineated in Section 366.93, F.S., for utility petitions and Commission actions for various types of costs. Additionally, the statute requires the utility to report to the Commission annually certain costs and information.

The primary benefit of the rule is that it achieves the objective of the statute by implementing alternative mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of nuclear power or IGCC power plants as set forth in Section 366.93, F.S. The rule defines terms relevant to nuclear or IGCC power plant cost recovery, and prescribes how deferred accounting treatment shall be afforded to certain costs. The rule also achieves the objectives set forth in Section 366.93, F.S., by establishing a procedure and timetable for utilities to file certain information and for the Commission to conduct its review and make determinations. The rule specifies that the Commission shall apply the standard provided pursuant to Section 403.519(4)(e), F.S., in making its determination of the reasonableness and prudence of construction expenditures and carrying costs. The rule achieves the objectives set forth in Section 366.93, F.S., by requiring the utility to submit, for Commission review and approval, as part of its annual Capacity Cost Recovery Clause filings, a true-up for previous years, true-up and projections for the current year, and projected costs for subsequent years. The rule requires the Commission to conduct a hearing and determine, prior to October 1 of each year, the reasonableness of projected pre-construction expenditures and the prudence of actual pre-construction expenditures; or, once construction begins, to determine the reasonableness of projected construction expenditures and the prudence of actual construction expenditures, and the associated carrying costs. The rule requires the Commission to enter its Order within 15 days of voting. To facilitate this determination, the rule requires the Commission to conduct

an on-going auditing and monitoring program of construction costs and related contracts pursuant to Section 366.08, F.S.

By requiring an annual proceeding as described above, the rule implements the Commission's review of the prudence of utility decisions and expenditures. The rule also encourages the addition of nuclear or IGCC capacity, which would improve the diversity of fuels used for electric generation. By providing clear direction to utilities regarding required filings, and by establishing specific timelines for Commission activities, the rule provides certainty to the industry and investors, thereby achieving the objective of promoting utility investment in nuclear or IGCC power plants as set forth in Section 366.93, F.S. This conclusion is supported by FPL's response to staff's data request regarding the rule. FPL stated that without Rule 25-6.0423, F.A.C. (or a substantially similar rule), the company would not have undertaken the Turkey Point Units 6 & 7 nuclear project or the Extended Power Upgrades (EPUs) of its existing nuclear power plants at the St. Lucie Units 1 and 2 and Turkey Point Units 3 and 4. PEF's response to staff's data request indicates that Rule 25-6.0423, F.A.C., provides an orderly and efficient process by which Section 366.93, F.S., can be implemented.

#### B. Statement of Estimated Regulatory Costs

Paragraph 120.745(1)(b)2., F.S., requires a compliance economic review to include a statement of estimated regulatory costs as discussed in Subsection 120.541(2), F.S., for the 5 year period beginning on July 1, 2011. The statement of estimated regulatory costs for this compliance economic review of Rule 25-6.0423, F.A.C., consists of Items 1 – 7 below.

##### 1. Entities and Individuals Affected

Paragraph 120.541(2)(b), F.S., requires a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule. Each of the electric IOUs operating in Florida is potentially subject to the rule if it chooses to begin the process of siting, designing, licensing, and constructing a nuclear or IGCC power plant in Florida. The five electric IOUs operating in Florida are Florida Power & Light Company (FPL), Progress Energy Florida, Inc. (PEF), Gulf Power Company (Gulf), Tampa Electric Company (TECO), and Florida Public Utilities Company (FPUC). Currently, only FPL and PEF have sought cost recovery for projects under Rule 25-6.0423, F.A.C. The rule indirectly affects every electric utility customer residing or doing business in the service territories of the electric IOUs because the rule provides the mechanism under which the utility will recover its prudently incurred costs of constructing a nuclear or IGCC power plant through utility rates. Currently, only the customers of FPL and PEF have had their rates adjusted based on cost recovery authorized under the provisions of Rule 25-6.0423, F.A.C.

##### 2. Economic Analysis

###### a. Regulatory Costs

Pursuant to Subparagraphs 120.745(1)(b)2.b. and 120.541(2)(a)3., F.S., an economic analysis shall show whether the rule, directly or indirectly, will have estimated regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within the 5 year time period beginning on

July 1, 2011. Regulatory costs identified in Subsection 120.541(2), F.S., include a good faith estimate of the transactional costs, or the direct costs to comply with rule, and a good faith estimate of the cost to the agency, or any other state and local government entities, of implementing and enforcing the rule.

Table 1 displays the information provided by the utilities in response to survey questions asking for the companies' transactional costs of the rule. Transactional costs for this rule include items such as payroll, legal, consulting, expert witness, and other annual docket expenses. Costs not included as regulatory costs include siting, design, licensing, and construction costs for the projects. PEF reported costs for each of the five years. FPL provided costs for the first three years but reported that it did not have sufficient information at this time to estimate costs during the last two years of the five year period. Both TECO and Gulf reported zero costs to comply with the rule as neither company currently has a project that qualifies for cost recovery under the rule. Florida Public Utilities Company (FPUC) did not provide a response to the survey. FPUC is a non-generating electric utility and does not have a project that qualifies for cost recovery under rule. As shown in Table 1, the transactional costs of the rule based upon the survey responses provided by the electric IOUs are estimated to be approximately \$21.1 million for the 5 year period beginning on July 1, 2011.

**Table 1.**  
**Estimated Five-Year Transactional Cost of Rule 25-6.0423, F.A.C. (Survey Responses)**

| Company | 2011-2012   | 2012-2013   | 2013-2014   | 2014-2015   | 2015-2016   | Estimated 5 Year Costs of Compliance |
|---------|-------------|-------------|-------------|-------------|-------------|--------------------------------------|
| PEF     | \$2,230,000 | \$2,297,000 | \$2,366,000 | \$2,437,000 | \$2,510,000 | \$11,840,000                         |
| FPL     | \$3,099,000 | \$3,099,000 | \$3,099,000 | \$0         | \$0         | \$9,297,000                          |
| TECO    | \$0         | \$0         | \$0         | \$0         | \$0         | \$0                                  |
| Gulf    | \$0         | \$0         | \$0         | \$0         | \$0         | \$0                                  |
| Total   | \$5,329,000 | \$5,396,000 | \$5,465,000 | \$2,437,000 | \$2,510,000 | \$21,137,000                         |

As noted above, FPL did not provide estimated costs for the last two years of the five year period. FPL indicated during follow-up questioning that it could not estimate costs for the last two years because the company had not yet made decisions about project activities which would impact such costs going forward. FPL stated that annual costs for the last two years were not expected to exceed those of the previous years. Using FPL's estimated annual transactional costs of \$3,099,000 for the last two years would bring the estimated 5 Year Costs of Compliance to \$27.3 million. Therefore, staff concludes that the estimated transactional costs of the rule range from \$21.1 million to \$27.3 million for the 5 year period beginning on July 1, 2011. To provide a consistent analysis, the \$27.3 million cost figure shown in Table 2 is used as it encompasses estimated annual costs for both PEF and FPL over the 5 year period.

**Table 2.**  
**Estimated Five-Year Transactional Cost of Rule 25-6.0423, F.A.C. (Adjusted)**

| Company      | 2011-2012          | 2012-2013          | 2013-2014          | 2014-2015          | 2015-2016          | Estimated 5<br>Year Costs<br>of<br>Compliance |
|--------------|--------------------|--------------------|--------------------|--------------------|--------------------|---|
| PEF          | \$2,230,000        | \$2,297,000        | \$2,366,000        | \$2,437,000        | \$2,510,000        | \$11,840,000                                  |
| FPL          | \$3,099,000        | \$3,099,000        | \$3,099,000        | \$3,099,000        | \$3,099,000        | \$15,495,000                                  |
| TECO         | \$0                | \$0                | \$0                | \$0                | \$0                | \$0   |
| Gulf         | \$0                | \$0                | \$0                | \$0                | \$0                | \$0   |
| <b>Total</b> | <b>\$5,329,000</b> | <b>\$5,396,000</b> | <b>\$5,465,000</b> | <b>\$5,536,000</b> | <b>\$5,609,000</b> | <b>\$27,335,000</b>                           |

Regulatory costs include not only transactional costs but also a good faith estimate of the costs to the agency to implement and enforce the rule. The cost to the FPSC to implement and enforce the rule based on a good faith estimate of the costs to be incurred for the 5 year period beginning on July 1, 2011, is \$1,815,536, as discussed in III.B.3. (Costs to Governmental Entities) below. Other state and local government agencies are not impacted by the rule. Based on the above analysis, the total estimated regulatory costs associated with the rule, including both estimated transactional costs to the electric IOUs from Table 2 and estimated costs to the FPSC, are \$29.1 million for the 5 year period beginning on July 1, 2011. Thus, our economic analysis indicates the rule directly or indirectly is likely to result in regulatory costs in excess of \$1 million for the 5 year period beginning on July 1, 2011.

**b. Economic Growth, Jobs, and Investment**

Pursuant to Section 120.745 and Subparagraph 120.541(2)(a)1., F.S., each compliance economic review shall include an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years beginning on July 1, 2011.

The electric IOUs' survey responses to the question regarding adverse impacts of the rule were varied, including: (1) a positive impact on economic growth, private sector job creation and employment, and private sector investment (FPL), (2) an indirect benefit to all these factors given that it implements the legislative intent of Section 366.93, F.S. (PEF), (3) no impact (TECO), and (4) the rule's impact is unknown (Gulf).

Assessing the adverse impacts implies a weighing of the costs and the benefits of the rule. As discussed in III.B.2.a., the utilities' transactional costs are estimated to be \$27.3 million over the 5 year period. These costs are passed through to ratepayers through the Capacity Cost Recovery Clause and base rates. Using the company-provided survey responses and estimating FPL's expenses for the final 2 years of the period, the estimated costs recovered through the Capacity Cost Recovery Clause are \$21 million. The remaining \$6.3 million are recovered through base rates.

The Capacity Cost Recovery Clause proceeding takes place annually and requires certain filings by the utility which are subject to review by the Commission as discussed above. The remaining regulatory costs are passed on to ratepayers through the utilities' base rates when operating units or systems associated with the power plant and the power plant itself are placed in commercial service. The recovery of costs through base rates is subject to Commission approval separate from any cost recovery clause petitions. At the time the power plant is included in base rates, recovery through the Capacity Cost Recovery Clause will cease, except for the difference between actual and projected construction costs as provided for in the rule. The primary benefit of the rule is that it provides clear direction to utilities regarding how costs will be recovered, describes required filings, establishes specific timelines for Commission activities, provides certainty to the industry and investors, and thereby achieves the objective of promoting utility investment in nuclear or IGCC power plants as set forth in Section 366.93, F.S.

According to FPL, "FPL would not have undertaken the EPU project (or the Turkey Point 6 & 7 project) without the Nuclear Cost Recovery Statute and Rule." In addition, FPL stated that these projects "have resulted or will result in the creation of a total of approximately 8,000 construction-related jobs, with varying numbers of workers needed during different phases of the projects."

PEF cited an indirect benefit in its survey response. "PEF does not believe that this rule alone causes any direct impact on economic growth, private sector job creation or employment, and private sector [sic] investment. However, PEF does believe that the Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery rule provides an indirect benefit to all these factors given that it implements the legislative intent of Section 366.93, Florida Statutes."

Neither TECO nor Gulf has a project that qualifies for cost recovery under the rule. Thus, TECO reported there would be no direct impact from TECO projects on economic growth, private sector job creation or employment, and private sector investment. However, TECO also stated that the mechanism for alternative cost recovery provided by the rule preserves any customer benefits that might be associated with nuclear or IGCC generation technologies that would otherwise be forgone if utilities are unable to construct these technologies due to the unavailability of the alternative cost recovery mechanism. Gulf reported that it does not analyze or maintain data concerning the economic impacts of this rule on third parties.

### c. Business Competitiveness

Pursuant to Subparagraphs 120.745(1)(b)2. and 120.541(2)(a)2., F.S., each compliance economic review shall include an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity or innovation in excess of \$1 million in the aggregate within 5 years beginning on July 1, 2011.

None of responding IOUs reported that the rule would have an adverse impact on business competitiveness. FPL believes there is a positive impact because the statute and the rule have enabled the company's investment in the Turkey Point 6 & 7 project and the Extended Power Uprate project.

“Both of FPL’s projects are projected to provide a lower-cost supply of electricity to FPL’s customers over the long term as compared to the most cost-effective non-nuclear generation alternative on FPL’s system (natural gas-fired combined cycle units), in a majority of projected fuel and environmental compliance cost scenarios, on a cumulative present value of revenue requirements basis.” PEF believes the rule provides an indirect benefit given that it implements the legislative intent of the statute. Neither TECO nor Gulf have a project that qualifies for recovery under the rule and therefore did not report an impact.

Assessing the adverse impacts implies a weighing of the costs and the benefits of the rule. As discussed in III.B.2.a., the regulatory costs are estimated at \$29.1 million over the 5 year period. The primary benefit of the rule is that it provides clear direction to utilities regarding how costs will be recovered, describes required filings, establishes specific timelines for Commission activities, provides certainty to the industry and investors, and thereby achieves the objective of promoting utility investment in nuclear or IGCC power plants by allowing all prudently incurred costs to be recovered in rates, as set forth in Section 366.93, F.S. Though there has been no utility investment in new or expanded IGCC power plants in Florida since the rule was implemented, utility investment in nuclear power plants has occurred and is projected to continue during the survey period. FPL has invested in the Turkey Point Units 6 & 7 nuclear project and the Extended Power Uprate project at existing nuclear facilities. In its survey response, FPL stated that the statute and rule had enabled the company’s investment in these projects. PEF has invested in the Levy Units 1 & 2 nuclear project and the Crystal River Unit 3 Uprate project.

In general, fair, reasonable, and stable utility rates support, rather than hinder, business competitiveness, productivity, and innovation. Thus, there is no known adverse impact on business competitiveness, productivity, or innovation associated with the rule.

### 3. Costs to Governmental Entities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(c), F.S., require a compliance economic review to include a good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the rule, and any anticipated effect on state or local revenues. The cost to the FPSC to implement and enforce the rule is based on a good faith estimate of the costs to be incurred for 5 year period. In order to provide a good faith estimate of the rule’s cost to the agency, the estimated annual number of hours dedicated to implementing and enforcing the rule for each employee class was multiplied by each class’s labor rate, and the resulting costs were aggregated for all employee classifications. The estimated cost to the FPSC to implement and enforce the rule for the 5 year period beginning on July 1, 2011, is \$1,815,536. Other state and local government agencies are not impacted by the rule. Thus, the cost to the State for the 5 year period beginning on July 1, 2011, necessary to achieve the benefits of the rule identified in III.A., above, including the establishment of alternative recovery mechanisms for the siting, design, licensing and construction of nuclear or IGCC power plants and the recovery in rates of all prudently incurred costs as set forth in Section 366.93, F.S., is estimated to be \$1,815,536.

#### 4. Transactional Costs Incurred by Individuals and Entities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(d), F.S., require a compliance economic review to include a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. Transactional costs of the rule to affected companies were identified in Section III.B.2, above. Transactional costs to other individuals and entities are estimated to be negligible. Therefore, the transactional costs incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule are estimated to be \$27.3 million for the 5 year period beginning on July 1, 2011.

#### 5. Impacts on Small Businesses, Small Counties, and Small Cities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(e), F.S., require an analysis of the impact of the rule on small businesses as defined by Section 288.703, F.S., and an analysis of the impact of the rule on small counties and small cities as defined in Section 120.52, F.S. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses.

The electric IOUs' survey responses to the question regarding impacts of the rule on small businesses, small counties, and small cities include: (1) new nuclear generation made possible by the statute and rule results in substantial benefits for customers, including small businesses, small counties and small cities (FPL); (2) the rule provides no direct costs but provides indirect benefits to small businesses, small counties, and small cities as it implements the legislative intent of Section 366.93, F.S. (PEF); (3) no impact (TECO); and, (4) the rule's impact is unknown (Gulf).

The estimated 5 year regulatory costs associated with the rule (\$29.1 million) are costs which will be largely passed through to the ratepayers of the participating electric IOUs. The rule provides for recovery of these costs in a stable and predictable manner over time. Both FPL and PEF indicated in their survey responses that without the statute and rule, they would not have begun their nuclear projects. By providing clear direction to utilities regarding how and when eligible costs will be recovered, the rule provides certainty to the industry and investors, and thereby achieves the objective of promoting utility investment in nuclear or IGCC power plants as set forth in Section 366.93, F.S. This utility investment is projected over the 5 year period to result in jobs that benefit small businesses, small counties and small cities through the employment income that is spent in local communities. FPL stated that these projects "have resulted or will result in the creation of a total of approximately 8,000 construction-related jobs, with varying numbers of workers needed during different phases of the projects."

In addition, the costs to implement the rule over the 5 year period will help make it possible to provide reliable electric service at fair and stable rates. This will support growth, employment, and investment, which will benefit small businesses, small counties, and small cities. In general, small businesses can typically expect to locate and maintain a presence in areas with fair and stable electric rates and charges. Conversely, volatile utility rates resulting from over-reliance on one type of fuel for baseload electricity generation can be a deterrent to businesses and their customers, and can have negative impacts on growth, employment, and investment. Considering the estimated cost and

benefits above, it is likely the rule will have more of a positive than negative impact on small businesses, small counties, and small cities during the 5 year period beginning on July 1, 2011.

6. Additional Information

Subparagraphs 120.745(1)(b) and 120.541(2)(f), F.S., require a compliance economic review to include any additional information that the agency determines may be useful. No additional useful information has been identified regarding the estimated regulatory costs of Rule 25-6.0423, F.A.C.

7. Alternatives

Subparagraphs 120.745(1)(b) and 120.541(2)(g), F.S., require a compliance economic review to include a description of any regulatory alternatives submitted under Paragraph 120.541(1)(a), F.S., and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the rule. No regulatory alternatives have been submitted pursuant to Paragraph 120.541(1)(a), F.S.

Attachments: Survey of Rule 25-6.0423, F.A.C., with attached rule



COMMISSIONERS:  
RONALD A. BRISÉ, CHAIRMAN  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

STATE OF FLORIDA



OFFICE OF  
INDUSTRY DEVELOPMENT &  
MARKET ANALYSIS  
MARK FUTRELL  
DIRECTOR  
(850) 413-7160

## Public Service Commission

November 21, 2012

To: Investor-Owned Electric Utilities

Re: Industry survey for legislative review of agency rules in effect on or before November 16, 2010  
Docket No. 110303-OT

To whom this may concern:

Please see attached staff's survey questions. Your timely response to these survey questions regarding Rule 25-6.0423, Florida Administrative Code (F.A.C.), will be important to complete the Commission's Compliance Economic Review required by Subsection 120.745(5), Florida Statutes. All responses should be filed in Docket No. 110303-OT by 5:00 p.m., December 20, 2012, and addressed to:

Kathryn Dyal Lewis  
c/o Ann Cole  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

If you have questions regarding the survey for Rule 25-6.0423, F.A.C., please contact Kathryn Lewis at 850-413-6594 or [kewis@psc.state.fl.us](mailto:kewis@psc.state.fl.us).

Sincerely,

Kathryn Dyal Lewis  
Regulatory Analyst IV  
Office of Industry Development & Market Analysis

**Rule 25-6.0423, F.A.C. Survey Questions**

The following survey questions apply to **Rule 25-6.0423, F.A.C. – Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery**. The Company's response data to these survey questions should be provided for the entire rule, unless the response data is available by rule section, in which case we request the response data be provided by rule section. Please present data in annualized format, if possible, and all cost or benefit dollar estimates should be stated in nominal terms. Please indicate whether the data is actual or projected. Relevant definitions are attached.

1. What are the Company's estimated transactional costs (as defined in Subparagraph 120.541(2)(d), F.S.) resulting from the Company's compliance with Rule 25-6.0423, F.A.C., Subparagraphs 1, 2, 3, 6, and 7 for the five-year period beginning July 1, 2011?
2. What are the actual or estimated transactional costs for each of the 5 years beginning July 1, 2011, to comply with Rule 25-6.0423, F.A.C., Subparagraphs 4 and 5? Please specify which of these costs are recovered through base rates and/or which cost recovery clause. Include, for example, the following items:
  - a. The costs of annual filings required to be submitted as part of the Company's capacity cost recovery clause filings.
  - b. Legal services and consultants.
  - c. Other costs associated with the required annual filings – please identify each.
3. What are the actual or estimated transactional costs for each of the 5 years beginning July 1, 2011, to comply with Rule 25-6.0423, F.A.C., Subparagraph 8? Please specify which of these costs are recovered through base rates and/or which cost recovery clause. Include, for example, the following items:
  - a. The costs of the Company's detailed statement of project costs required to be submitted as part of the Company's detailed statement of project cost filings as described in Rule 24-6.0423, subparagraphs 8(b) - 8(e).
  - b. The costs of including the additional information specified in Rule 25-6.0423, Subparagraph 8(f) in the Company's annual report filed pursuant to Rule 25-6.134, F.A.C.
4. Of the costs provided in answer to questions 1 through 3 above, which, if any, would be incurred by the Company if Rule 25-6.0423, F.A.C., were not in effect?
5. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits on small businesses (as defined in Section 288.703, F.S.) located in the Company's service territory, resulting from the implementation of Rule 25-6.0423, F.A.C., for the five-year period beginning July 1, 2011?
6. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits on small counties and small cities (as defined in Section 120.52, F.S.) located in the Company's service

territory, resulting from the implementation of Rule 25-6.0423, F.A.C., for the five-year period beginning July 1, 2011?

7. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits on entities located in the Company's service territory other than those specifically identified in questions 5 and 6, resulting from the implementation of Rule 25-6.0423, F.A.C., for the five-year period beginning July 1, 2011?
8. What does the Company believe is the expected impact of Rule 25-6.0423, F.A.C., on economic growth, private sector job creation or employment, and private sector investment for the five-year period beginning July 1, 2011?
9. What does the Company believe is the expected impact of Rule 25-6.0423, F.A.C., on business competitiveness, including the ability of persons doing business in the Company's service territory to compete with persons doing business in states other than Florida or other domestic markets, productivity, and innovation, for the five-year period beginning July 1, 2011?
10. What does the Company believe are the benefits associated with Rule 25-6.0423, F.A.C.?

**25-6.0423 Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery.**

(1) Purpose. The purpose of this rule is to establish alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of nuclear or integrated gasification combined cycle power plants in order to promote electric utility investment in nuclear or integrated gasification combined cycle power plants and allow for the recovery in rates of all such prudently incurred costs.

(2) Definitions. As used in this rule, the following definitions shall apply:

(a) "Nuclear power plant" is an electrical power plant that utilizes nuclear materials as fuel, as defined in Sections 403.503(13) and 366.93(1)(c), F.S.

(b) "Integrated gasification combined cycle power plant" is an electrical power plant that uses synthesis gas produced by integrated gasification technology, as defined in Sections 403.503(13) and 366.93(1)(c), F.S.

(c) "Power plant" or "plant" means a nuclear power plant or an integrated gasification combined cycle power plant.

(d) "Cost" includes, but is not limited to, all capital investments including rate of return, any applicable taxes and all expenses, including operation and maintenance expenses, related to or resulting from the siting, licensing, design, construction, or operation of the nuclear or integrated gasification combined cycle power plant as defined in Section 366.93(1)(a), F.S.

(e) "Site selection." A site will be deemed to be selected upon the filing of a petition for a determination of need for a nuclear or integrated gasification combined cycle power plant pursuant to Section 403.519, F.S.

(f) "Site selection costs" are costs that are expended prior to the selection of a site.

(g) "Pre-construction costs" are costs that are expended after a site has been selected in preparation for the construction of a nuclear or integrated gasification combined cycle power plant, incurred up to and including the date the utility completes site clearing work.

(h) Site selection costs and pre-construction costs include, but are not limited to: any and all costs associated with preparing, reviewing and defending a Combined Operating License (COL) application for a nuclear power plant; costs associated with site and technology selection; costs of engineering, designing, and permitting the nuclear or integrated gasification combined cycle power plant; costs of clearing, grading, and excavation; and costs of on-site construction facilities (i.e., construction offices, warehouses, etc.).

(i) "Construction costs" are costs that are expended to construct the nuclear or integrated gasification combined cycle power plant including, but not limited to, the costs of constructing power plant buildings and all associated permanent structures, equipment and systems.

(3) Deferred Accounting Treatment. Site selection and pre-construction costs shall be afforded deferred accounting treatment and shall, except for projected costs recovered on a projected basis in one annual cycle, accrue a carrying charge equal to the utility's allowance for funds used during construction (AFUDC) rate until recovered in rates.

(4) Site Selection Costs. After the Commission has issued a final order granting a determination of need for a power plant pursuant to Section 403.519, F.S., a utility may file a petition for a separate proceeding, to recover prudently incurred site selection costs. This separate proceeding will be limited to only those issues necessary for the determination of prudence and alternative method for recovery of site selection costs of a power plant.

(5) Pre-Construction Costs and Carrying Costs on Construction Cost Balance. After the Commission has issued a final order granting a determination of need for a power plant pursuant to Section 403.519, F.S., a utility may petition the Commission for recovery of pre-construction costs and carrying costs of construction cost balance as follows:

(a) Pre-Construction Costs. A utility is entitled to recover, through the Capacity Cost Recovery Clause, its actual and projected pre-construction costs. The utility may also recover the related carrying charge for those costs not recovered on a projected basis. Such costs will be recovered within 1 year, unless the Commission approves a longer recovery period. Any party may, however, propose a longer period of recovery, not to exceed 2 years.

1. Actual pre-construction costs incurred by a utility prior to the issuance of a final order granting a determination of need pursuant to Section 403.519, F.S., shall be included in the initial filing made by a utility under this subsection for review, approval, and a finding with respect to prudence.

2. The Commission shall include pre-construction costs determined to be reasonable and prudent in setting the factor in the annual Capacity Cost Recovery Clause proceedings, as specified in subparagraph (5)(c)3. of this rule. Such costs shall not be subject to disallowance or further prudence review.

(b) Carrying Costs on Construction Cost Balance. A utility is entitled to recover, through the utility's Capacity Cost Recovery Clause, the carrying costs on the utility's annual projected construction cost balance associated with the power plant. The actual carrying costs recovered through the Capacity Cost Recovery Clause shall reduce the allowance for funds used during construction (AFUDC) that would otherwise have been recorded as a cost of construction eligible for future recovery as plant in service.

1. For power plant need petitions submitted on or before December 31, 2010, the associated carrying costs shall be computed based on the pretax AFUDC rate in effect on June 12, 2007;

2. For power plant need petitions submitted after December 31, 2010, the utility's pretax AFUDC rate in effect at the time the petition for determination of need is filed is presumed to be appropriate unless the Commission determines otherwise in its need determination order;

3. The Commission shall include carrying costs on the balance of construction costs determined to be reasonable or prudent in setting the factor in the annual Capacity Cost Recovery Clause proceedings, as specified in paragraph (5)(c) of this rule.

(c) Capacity Cost Recovery Clause for Nuclear or Integrated Gasification Combined Cycle Power Plant Costs.

1. Each year, a utility shall submit, for Commission review and approval, as part of its Capacity Cost Recovery Clause filings:

a. True-Up for Previous Years. By March 1, a utility shall submit its final true-up of pre-construction expenditures, based on actual preconstruction expenditures for the prior year and previously filed expenditures for such prior year and a description of the pre-construction work actually performed during such year; or, once construction begins, its final true-up of carrying costs on its construction expenditures, based on actual carrying costs on construction expenditures for the prior year and previously filed carrying costs on construction expenditures for such prior year and a description of the construction work actually performed during such year.

b. True-Up and Projections for Current Year. By May 1, a utility shall submit for Commission review and approval its actual/estimated true-up of projected pre-construction expenditures based on a comparison of current year actual/estimated expenditures and the previously-filed estimated expenditures for such current year and a description of the pre-construction work projected to be performed during such year; or, once construction begins, its actual/estimated true-up of projected carrying costs on construction expenditures based on a comparison of current year actual/estimated carrying costs on construction expenditures and the previously filed estimated carrying costs on construction expenditures for such current year and a description of the construction work projected to be performed during such year.

c. Projected Costs for Subsequent Years. By May 1, a utility shall submit, for Commission review and approval, its projected pre-construction expenditures for the subsequent year and a description of the pre-construction work projected to be performed during such year; or, once construction begins, its projected construction expenditures for the subsequent year and a description of the construction work projected to be performed during such year.

2. The Commission shall, prior to October 1 of each year, conduct a hearing and determine the reasonableness of projected pre-construction expenditures and the prudence of actual pre-construction expenditures expended by the utility; or, once construction begins, to determine the reasonableness of projected construction expenditures and the prudence of actual construction expenditures expended by the utility, and the associated carrying costs. Within 15 days of the Commission's vote, the Commission shall enter its order. Annually, the Commission shall make a prudence determination of the prior year's actual construction costs and associated carrying costs. To facilitate this determination, the Commission shall conduct an on-going auditing and monitoring program of construction costs and related contracts pursuant to Section 366.08, F.S. In making its determination of reasonableness and prudence the Commission shall apply the standard provided pursuant to Section 403.519(4)(e), F.S.

3. The Commission shall include those costs it determines, pursuant to this subsection, to be reasonable or prudent in setting the Capacity Cost Recovery Clause factor in the annual Fuel and Purchased Power Cost Recovery proceedings. Such prior year actual costs associated with power plant construction subject to the annual proceeding

shall not be subject to disallowance or further prudence review.

4. The final true-up for the previous year, actual/estimated true-up for the current year, and subsequent year's projected power plant costs as approved by the Commission pursuant to subparagraph (5)(c)2. will be included for cost recovery purposes as a component of the following year's capacity cost recovery factor in the Fuel and Purchased Power Cost Recovery. The utility must file all necessary revisions to the fuel and purchased power cost recovery filings no later than October 15 of the current year.

5. By May 1 of each year, along with the filings required by this paragraph, a utility shall submit for Commission review and approval a detailed analysis of the long-term feasibility of completing the power plant.

(6) Failure to Enter Commercial Service. Following the Commission's issuance of a final order granting a determination of need for the power plant, in the event the utility elects not to complete or is precluded from completing construction of the power plant, the utility shall be allowed to recover all prudent site selection costs, pre-construction costs, and construction costs.

(a) The utility shall recover such costs through the Capacity Cost Recovery Clause over a period equal to the period during which the costs were incurred or 5 years, whichever is greater.

(b) The amount recovered under this subsection will be the remaining unrecovered Construction Work in Progress (CWIP) balance at the time of abandonment and future payment of all outstanding costs and any other prudent and reasonable exit costs. The unrecovered balance during the recovery period will accrue interest at the utility's overall pretax weighted average midpoint cost of capital on a Commission adjusted basis as reported by the utility in its Earnings Surveillance Report filed in December of the prior year, utilizing the midpoint of return on equity (ROE) range or ROE approved for other regulatory purposes, as applicable.

(7) Commercial Service. As operating units or systems associated with the power plant and the power plant itself are placed in commercial service:

(a) The utility shall file a petition for Commission approval of the base rate increase pursuant to Section 366.93(4), F.S., separate from any cost recovery clause petitions, that includes any and all costs reflected in such increase, whether or not those costs have been previously reviewed by the Commission; provided, however, that any actual costs previously reviewed and determined to be prudent in the Capacity Cost Recovery Clause shall not be subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information.

(b) The utility shall calculate the increase in base rates resulting from the jurisdictional annual base revenue requirements for the power plant in conjunction with the Capacity Cost Recovery Clause projection filing for the year the power plant is projected to achieve commercial operation. The increase in base rates will be based on the annualized base revenue requirements for the power plant for the first 12 months of operations consistent with the cost projections filed in conjunction with the Capacity Cost Recovery Clause projection filing.

(c) At such time as the power plant is included in base rates, recovery through the Capacity Cost Recovery Clause will cease, except for the difference between actual and projected construction costs as provided in subparagraph (5)(c)4. above.

(d) The rate of return on capital investments shall be calculated using the utility's most recent actual Commission adjusted basis overall weighted average rate of return as reported by the utility in its most recent Earnings Surveillance Report prior to the filing of a petition as provided in paragraph (7)(a). The return on equity cost rate used shall be the midpoint of the last Commission approved range for return on equity or the last Commission approved return on equity cost rate established for use for all other regulatory purposes, as appropriate.

(e) The jurisdictional net book value of any existing generating plant that is retired as a result of operation of the power plant shall be recovered through an increase in base rate charges over a period not to exceed 5 years. At the end of the recovery period, base rates shall be reduced by an amount equal to the increase associated with the recovery of the retired generating plant.

(8) A utility shall, contemporaneously with the filings required by paragraph (5)(c) above, file a detailed statement of project costs sufficient to support a Commission determination of prudence, including, but not limited to, the information required in paragraphs (8)(b) – (8)(e), below.

(a) Subject to suitable confidentiality agreements or, to the extent necessary, protective orders issued by the

Commission, a utility will ensure reasonably contemporaneous access, which may include access by electronic means, for review by parties of all documents relied on by utility management to approve expenditures for which cost recovery is sought. Access to any information that is "Safeguards Information" as defined in 42 U.S.C. 2167 and 10 C.F.R. 73.21, incorporated by reference into this Rule, shall only be in accordance with applicable Nuclear Regulatory Commission requirements.

(b) Regarding technology selected, a utility shall provide a description of the technology selected that includes, but is not limited to, a review of the technology and the factors leading to its selection.

(c) The annual true-up and projection cost filings shall include a list of contracts executed in excess of \$1 million to include the nature and scope of the work, the dollar value and term of the contract, the method of vendor selection, the identity and affiliation of the vendor, and current status of the contract.

(d) Final true-up filings and actual/estimated true-up filings will include monthly expenditures incurred during those periods for major tasks performed within Site Selection, Preconstruction and Construction categories. A utility shall provide annual variance explanations comparing the current and prior period to the most recent projections for those periods filed with the Commission.

(e) Projection filings will include monthly expenditures for major tasks performed within Site Selection, Preconstruction and Construction categories.

(f) Annual Reports Required by Rule 25-6.135, F.A.C. On an annual basis following issuance of the final order granting a determination of need and until commercial operation of the power plant, a utility shall include the budgeted and actual costs as compared to the estimated in-service costs of the power plant as provided in the petition for need determination in its annual report filed pursuant to Rule 25-6.135, F.A.C. The estimates provided in the petition for need determination are non-binding estimates. Some costs may be higher than estimated and other costs may be lower. A utility shall provide such revised estimated in-service costs as may be necessary in its annual report.

*Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 366.93 FS. History—New 4-8-07, Amended 2-3-08.*

**Excerpts from Florida Statutes****120.541 Statement of estimated regulatory costs.—**

...

(2)(d) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.

**288.703 Definitions. —** As used in ss. 288.702-288.706, the term:

...

(6) "Small business" means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

**120.52 Definitions. —** As used in this act:

...

(18) "Small city" means any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census.

(19) "Small county" means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.



**ATTACHMENT C**

**Compliance Economic Review  
for  
Rule 25-6.043, Florida Administrative Code,  
Investor-Owned Electric Utility Minimum Filing  
Requirements; Commission Designee**

**Florida Public Service Commission**

This document is prepared in response to the requirements  
of Section 120.745, Florida Statutes

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- Attachment 1: Survey on Rule 25-6.043, F.A.C., with attached rule

## I. EXECUTIVE SUMMARY

Section 120.745, Florida Statutes (F.S.), became effective in 2011 and requires each agency to complete an enhanced biennial review of all its existing rules and publish a report by December 1, 2011. The statute requires each agency to identify in its report each of its rules which require a compliance economic review. A compliance economic review is defined as a good faith economic analysis which includes a justification for the rule, a statement of estimated regulatory costs for the 5 year period beginning on July 1, 2011, and an explanation of the methodology used to conduct the analysis. A compliance economic review is required for each entire rule that the agency does not plan to repeal by December 31, 2012, was effective on or before November 16, 2010, and is considered by the agency to probably have any of the economic impacts described in Paragraph 120.541(2)(a), F.S., for the 5 year period beginning on July 1, 2011.

The Florida Public Service Commission (FPSC or Commission) completed its enhanced biennial review report on November 22, 2013. Within the report, the FPSC delineated ten rules it determined were subject to a compliance economic review. Pursuant to Subparagraph 120.745(2)(h), F.S., the FPSC divided these rules into Group 1, with the accompanying compliance economic review due May 1, 2012, and Group 2, due May 1, 2013. Rule 25-6.043, F.A.C., Investor-Owned Electric Utility Minimum Filing Requirements; Commission Designee (the rule), is one of five rules which were included in the list of Group 2 rules appearing in the FPSC's enhanced biennial review and is the subject of this compliance economic review. The purpose of the rule is to establish minimum filing requirements and filing instructions for investor-owned electric utilities to follow in filing a petition for a change in rates.

The FPSC prepared and distributed rule impact surveys to each of the five investor-owned electric utilities operating in the state subject to FPSC jurisdiction. The purpose of the survey was to collect relevant information to complete the required economic analysis. Based on the survey responses and other data, our analysis indicates that the regulatory costs associated with the rule are estimated to be approximately \$5.07 million for the 5 year period beginning on July 1, 2011. The primary benefit of Rule 25-6.043, F.A.C., is that it achieves the objective of the statutes, including the authorization to require utilities to file reports and data necessary to exercise the FPSC's jurisdiction. Our analysis indicates that the rule will not have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, innovation, or productivity during the 5 year period beginning on July 1, 2011. Small businesses, small counties, and small cities are likely to be positively impacted by the rule during the 5 year period. In addition, it is likely that the investor-owned electric utilities would incur the same amount of transactional costs even if the rule was not in effect.

## **II. TECHNICAL METHODOLOGY**

Section 120.745(1)(b)2.c, F.S., requires an explanation of the technical methodology used to conduct the analysis required in Section 120.541(2), F.S., for each agency rule for which a compliance economic review is performed. The FPSC conducted a survey of each of the entities subject to the rule. The purpose of the survey was to determine the estimated impacts of the rule on the regulated entity, as well as its customers, including small businesses, small counties, and small cities. Each of the regulated entities who must comply with the rule holds the best information regarding the estimated future impacts of the rule on their operations and their customers who purchase their services and products.

In that regard, the methodology for conducting the analysis required in Section 120.541(2), F.S., first required the development and distribution of an effective survey instrument. The survey instrument was designed to collect data which would identify the estimated impacts of the rule for the 5 year period beginning on July 1, 2011. The survey instrument for the rule with attached rule language is included as Attachment 1.

The next step was to review the information contained in the survey responses. The information provided by regulated utilities was then compared with information the FPSC has in its records or otherwise available to it, in order to determine whether the responses received appeared to be consistent with similar data or information for recent periods or forecasted periods. The rule has been in effect for 32 years and some of the information pertaining to the financial impacts of the rule has already been quantified and in some cases provided to the FPSC.

The final step in the analysis involved aggregating the responses of all the respondents in order to determine the rule's quantitative and qualitative impacts as required by the statute. In cases where one or more regulated entities did not provide a response to the survey, it became necessary to rely upon otherwise available information to estimate the rule's impact(s) on that regulated entity(ies) in order to contribute as much information as possible to the rule's impact.

## **III. COMPLIANCE ECONOMIC REVIEW COMPONENTS**

### **A. Rule Justification**

Paragraph 120.745(1)(b), F.S., requires that compliance economic reviews include a justification for the rule which summarizes the rule's benefits. Rule 25-6.043, F.A.C., requires investor-owned electric utilities to complete FPSC Form PSC/ECR 011-E (02/04), entitled "Minimum Filing Requirements for Investor-Owned Electric Utilities" and to file the prepared direct testimony and exhibits of each witness.

The FPSC has broad jurisdiction over all investor-owned electric utilities operating in the state, including the regulation of rates, service, and safety. Rule 25-6.043, F.A.C., which became effective on May 27, 1981, implements Sections 366.04, and 366.06, F.S. Section 366.06, F.S., states that all applications for changes in rates shall be made to the FPSC in writing under rules and

regulations prescribed, and that the FPSC shall have the authority to determine and fix fair, just, and reasonable rates that may be requested, demanded, charged, or collected by any public utility for its service. Since its implementation on May 27, 1981, the rule has been revised numerous times. The most recent revision, effective February 12, 2004, streamlined the minimum filing requirements by reducing both the the number of schedules and the requirements of the schedules that must be filed in rate case proceedings.

## B. Statement of Estimated Regulatory Costs

Subparagraph 120.745(1)(b)2., F.S., requires a compliance economic review to include a statement of estimated regulatory costs as discussed in Subsection 120.541(2), F.S., for the 5 year period beginning on July 1, 2011. The statement of estimated regulatory costs for this compliance economic review of Rule 25-6.043, F.A.C., consists of Items 1 – 7 below.

### 1. Entities and Individuals Affected

Paragraph 120.541(2)(b), F.S., requires a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule. Five investor-owned electric utilities are subject to FPSC jurisdiction. The rule indirectly affects electric service customers residing or doing business in the service territories of the regulated entities through the recovery of the rule's regulatory costs in electric service rates and charges.

### 2. Economic Analysis

#### a. Regulatory Costs

Subparagraphs 120.745(1)(b)2.b. and 120.541(2)(a)3., F.S., require an economic analysis to show whether the rule, directly or indirectly, will have estimated regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate for the 5 year time period beginning on July 1, 2011. Regulatory costs identified in Subsection 120.541(2), F.S., include a good faith estimate of the transactional costs, or the direct costs to comply with rule, and a good faith estimate of the cost to the agency, or any other state and local government entities, of implementing and enforcing the rule.

The transactional costs associated with the rule were reviewed. These costs typically involve the cost to prepare and file the minimum filing requirements and associated testimony and exhibits.

The four largest of the five investor-owned electric utilities responded to the FPSC survey. Florida Power & Light Company (FPL) estimated that it spent approximately \$1.4 million to comply with the rule in its most recent request for a rate increase. Gulf Power Company (GPC) could not provide the specific costs for complying with the rule, but reported that it spent a total of \$4.5 million to litigate its most recent rate increase request. Progress Energy Florida, Inc. (PEF) also provided total costs of \$6.1 million based on its most recent rate increase filing. Tampa Electric Company (TECO) responded that it would expect to incur total legal costs of \$1.9 million and total consultant expenses

of \$1.5 million (\$3.4 million total) to support its rate increase petition. Florida Public Utilities Company (FPUC) did not respond to the survey.

Except for FPL, the other investor-owned electric utilities were unable to provide any specific amounts for complying with the rule. In its most recent rate increase request, FPL estimated that it would incur total rate case expenses of \$5,515,000. FPL's estimated rule compliance costs of \$1.4 million represent approximately 25 percent of the total rate case expenses. It is a reasonable assumption to expect that the rule compliance costs for the other investor-owned electric utilities would be a similar percentage of their total rate case expense. It is also reasonable to assume that each investor-owned electric utility will file only 1 rate increase petition during the 5 year period beginning July 1, 2011.

As shown in Table 1, the total transactional costs for the investor-owned electric utilities associated with the rule for the 5 year period beginning on July 1, 2011, is approximately \$5,050,000. It should be noted that in response to Question No. 2, the investor-owned electric utilities stated that it was likely that the same amount of transactional costs would be incurred even if the rule was not in effect. These costs are ultimately passed through to the residential and business customers of the affected utilities.

| <b>Table 1</b>  |                                    |  |
|---|------------------------------------|--|
| <b>Investor-Owned Electric Utility 5 Year Transactional Costs – Rule 25-6.043, F.A.C.</b> |                                    |  |
| Investor-Owned Electric Utility   | Total Estimated Rate Case Expenses | Estimated Rule Transactional Costs @ 25% |
| Florida Power & Light Company   | \$5,515,000                        | \$1,400,000                              |
| Florida Public Utilities Company  | \$600,000                          | \$150,000                                |
| Gulf Power Company  | \$4,500,000                        | \$1,125,000                              |
| Progress Energy Florida, Inc.   | \$6,100,000                        | \$1,525,000                              |
| Tampa Electric Company  | \$3,400,000                        | \$850,000                                |
| <b>Total</b>  | <b>\$20,115,000</b>                | <b>\$5,050,000</b>                       |

The cost to the FPSC to implement and enforce the rule based on a good faith estimate for the 5 year period beginning on July 1, 2011, is \$18,034, as discussed in section III.B.3. (Costs to Governmental Entities) below. Other state and local government agencies are not impacted by the rule.

Based on the above analysis, the total regulatory costs associated with the rule including both transactional costs and costs to the agency, is estimated to be approximately \$5.07 million for the 5 year period beginning on July 1, 2011. Thus, our economic analysis indicates the rule directly or indirectly is likely to result in regulatory costs in excess of \$1 million for the 5 year period beginning on July 1, 2011.

## b. Economic Growth, Jobs, and Investment

Section 120.745 and Subparagraph 120.541(2)(a)1., F.S., require each compliance economic review to include an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years beginning on July 1, 2011. The FPSC survey of the investor-owned electric utilities requested information responsive to this requirement for the rule for the 5 year period beginning on July 1, 2011, for their specific service territories.

The investor-owned electric utilities responded in Question 6 that the rule's impact on economic growth, private sector job creation or employment, and private sector investment was either unknown or none.

Assessing the adverse impacts implies a weighing of the costs and the benefits of the rule. As discussed in III.B.2.a., the utilities' transactional costs are estimated to be \$5.05 million over the 5 year period. These costs are passed through to the ratepayers of the investor-owned electric utilities. The primary benefit of Rule 25-6.043, F.A.C., is that it achieves the statutory objectives of the collection of the data necessary to review the investor-owned electric utilities' petitions for a change in rates.

The economic benefits of stable and accurate rates and adequate service are not easily quantified. The rule provides the FPSC with the analytical data to help evaluate the rates and service for the investor-owned electric utilities. Considering the cost and benefits identified above, the benefits of the rule outweigh the cost of the rule. Fair and reasonable utility rates support, rather than hinder, economic growth, employment, and investment. In conclusion, there are no known adverse impacts on economic growth, private sector job creation or employment, or private sector investment associated with the rule.

## c. Business Competitiveness

Subparagraphs 120.745(1)(b)2. and 120.541(2)(a)2., F.S., require each compliance economic review to include an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate over the 5 year period beginning on July 1, 2011. The FPSC survey of the investor-owned electric utilities requested information responsive to this requirement for the rule for the 5 year period beginning on July 1, 2011, for their specific service territories.

The investor-owned electric utilities responded in Question 7 that the rule's impact on business competitiveness, productivity, and innovation was either unknown or none.

Given these considerations and the critical importance of electric regulation to businesses operating in Florida, it is unlikely that the rule will directly or indirectly have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate over the 5 year period beginning on July 1, 2011.



### 3. Costs to Governmental Entities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(c), F.S., require a compliance economic review to include a good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the rule, and any anticipated effect on state or local revenues. In order to provide a good faith estimate of the rule's cost to the agency, the estimated annual number of hours dedicated to implementing and enforcing the rule for each employee class was multiplied by each class's labor rate, and the resulting costs were aggregated for all employee classifications. Based on this analysis, the estimated cost to the FPSC to implement and enforce the rule is \$18,034 for the 5 year period beginning on July 1, 2011. Other state and local government agencies are not impacted by the rule.

The FPSC's estimated costs allow for the initial review for the completeness of the minimum filing requirements which are used by the agency to achieve the benefits of the rule identified in III.A., above. These benefits include the regulation of rates and service of investor-owned electric utilities as set forth in Section 366.06, F.S.

### 4. Transactional Costs Incurred by Individuals and Entities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(d), F.S., require a compliance economic review to include a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the rule. Estimated transactional costs associated with the rule were identified in section III.B.2., above. The transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the rule, are estimated to be \$5.05 million for the 5 year time period beginning on July 1, 2011.

### 5. Impacts on Small Businesses, Small Counties, and Small Cities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(e), F.S., require a compliance economic review to include an analysis of the impact of the rule on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined in Section 120.52, F.S. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses.

The investor-owned electric utilities responding to the FPSC survey questions regarding small business, small county, and small city impacts of the rule for the 5 year period beginning 2011, stated that the impacts were unknown, none or negligible.

The 5 year regulatory costs associated with the rule identified in the prior section (\$5.07 million) are costs which will be largely passed through, at some point in time, to the ratepayers of the investor-owned electric utilities. The stated regulatory costs to small businesses, small counties, and small cities support fair and reasonable electric rates and charges which, in turn, support growth, employment, and investment. In general, small businesses can typically expect to locate and maintain a presence in areas with fair and reasonable electric rates and charges. Conversely, unregulated

electric rates and service can be expected to be a deterrent to businesses, and could have negative impacts to growth, employment, and investment. Considering the cost and benefits above, Rule 25-6.043, F.A.C., is likely to have a positive impact on small businesses, small counties, and small cities during the 5 year period beginning on July 1, 2011.

6. Additional Information

Subparagraphs 120.745(1)(b)2. and 120.541(2)(f), F.S., require a compliance economic review to include any additional information that the agency determines may be useful. No additional useful information has been identified regarding the estimated regulatory costs of Rule 25-6.043, F.A.C.

7. Alternatives

Subparagraphs 120.745(1)(b)2. and 120.541(2)(g), F.S., require a compliance economic review to include a description of any regulatory alternatives submitted under Paragraph 120.541(1)(a), F.S., and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the rule. No regulatory alternatives have been submitted pursuant to Paragraph 120.541(1)(a), F.S.

Attachments: Survey on Rule 25-6.043, F.A.C., with attached rule

COMMISSIONERS:  
RONALD A. BRISÉ, CHAIRMAN  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

STATE OF FLORIDA



MARSHALL WILLIS, DIRECTOR  
DIVISION OF ACCOUNTING AND FINANCE  
(850) 413-6900

## Public Service Commission

November 21, 2012

To: Investor-Owned Electric Utilities

Re: Industry survey for legislative review of agency rules in effect on or before November 16, 2010  
Docket No. 110303-OT

To whom this may concern:

Please see attached staff's survey questions. Your timely response to these survey questions regarding Rule 25-6.043, Florida Administrative Code (F.A.C.) will be important to complete the Commission's Compliance Economic Review required by Subsection 120.745(5), Florida Statutes. All responses should be filed in Docket No. 110303-OT by 5:00 p.m., December 20, 2012, and addressed to:

John Slemkewicz  
c/o Ann Cole  
Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

If you have any questions, please contact John Slemkewicz at (850) 413-6420 or [jslemkew@psc.state.fl.us](mailto:jslemkew@psc.state.fl.us). Thank you for your assistance.

Sincerely,

Andrew L. Maurey  
Bureau Chief, Surveillance and Rate Filings  
Division of Accounting & Finance

**Rule 25-6.043, F.A.C. - Survey Questions**

The following survey questions apply to **Rule 25-6.043, F.A.C. – Investor-Owned Electric Utility Minimum Filing Requirements; Commission Designee**. The Company's response data to these survey questions should be provided for the entire rule, unless the response data is available by rule section, in which case we request the response data be provided by rule section. Please present data in annualized format, if possible, and all cost or benefit dollar estimates should be stated in nominal terms. Please indicate whether the data is actual or projected. Relevant definitions are attached.

1. What are the Company's estimated transactional costs (as defined in Subparagraph 120.541(2)(d), F.S.) resulting from the Company's compliance with Rule 25-6.043, F.A.C., for the five-year period beginning July 1, 2011? Include, for example, the following items separated between internal costs and external costs:
  - a. The costs of preparing the minimum filing requirements.
  - b. Witness preparation and appearance before the Commission.
  - c. Petition and testimony filings.
  - d. Legal costs.
  - e. Consultant costs.
  - f. Other costs associated with the required filings – please identify each.
2. Of the costs provided in response to question 1 above, which, if any, would be incurred by the Company if Rule 25-6.043, F.A.C., were not in effect?
3. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits on small businesses (as defined by Section 288.703, F.S.) located in the Company's service territory, resulting from the implementation of Rule 25-6.043, F.A.C., for the five-year period beginning July 1, 2011?
4. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on small counties and small cities (as defined in Section 120.52, F.S.) located in the Company's service territory, resulting from the implementation of 25-6.043, F.A.C., for the five-year period beginning July 1, 2011?
5. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits on entities located in the Company's service territory other than those specifically identified in questions 3 and 4, resulting from the implementation of Rule 25-6.043, F.A.C., for the five-year period beginning July 1, 2011?

6. What does the Company believe is the expected impact of Rule 25-6.043, F.A.C., on economic growth, private sector job creation or employment, and private sector investment for the five-year period beginning July 1, 2011?
7. What does the Company believe is the expected impact of Rule 25-6.043, F.A.C., on business competitiveness, productivity, and innovation, including the ability of persons doing business in the Company's service territory to compete with persons doing business in states other than Florida or other domestic markets for the five-year period beginning July 1, 2011?
8. What does the Company believe are the benefits associated with Rule 25-6.043, F.A.C.?

**25-6.043 Investor-Owned Electric Utility Minimum Filing Requirements; Commission Designee.****(1) General Filing Instructions.**

(a) The petition under Sections 366.06 and 366.071, F.S., for adjustment of rates must include or be accompanied by:

1. The information required by Commission Form PSC/ECR/011-E (2/04), entitled "Minimum Filing Requirements for Investor-Owned Electric Utilities" which is incorporated into this rule by reference. The form may be obtained from the Commission's Division of Economic Regulation.

2. The exact name of the applicant and the address of the applicant's principal place of business.

3. Copies of prepared direct testimony and exhibits for each witness testifying on behalf of the Company.

(b) In compiling the required schedules, a company shall follow the policies, procedures and guidelines prescribed by the Commission in relevant rules and in the company's last rate case or in a more recent rate case involving a comparable utility. These schedules shall be identified appropriately (e.g., Schedule B-1 would be designated Company Schedule B-1 – Company basis).

(c) Each schedule shall be cross-referenced to identify related schedules as either supporting schedules or recap schedules.

(d) Each page of the filing shall be numbered on 8 1/2 × 11-inch paper. Each witness' prefiled testimony and exhibits shall be on numbered pages and all exhibits shall be attached to the proponent's testimony.

(e) Except for handwritten official company records, all data in the petition, testimony, exhibits and minimum filing requirements shall be typed.

(f) Each schedule shall indicate the name of the witness responsible for its presentation.

(g) All schedules involving investment data shall be completed on an average investment basis. Unless a specific schedule requests otherwise, average is defined as the average of 13 monthly balances.

(h) Twenty-one copies of the filing, consisting of the petition and its supporting attachments, testimony, and exhibits, shall be filed with the Office of Commission Clerk.

(i) Whenever the company proposes any corrections, updates or other changes to the originally filed data, 21 copies shall be filed with the Office of Commission Clerk with copies also served on all parties at the same time.

(2) Commission Designee: The Director of the Division of Economic Regulation shall be the designee of the Commission for purposes of determining whether the utility has met the minimum filing requirements imposed by this rule. In making this determination, the Director shall consider whether information that would have been provided in a particular schedule required by this rule has been provided to the same degree of detail in another required schedule that the utility incorporates by reference.

*Specific Authority 366.05(1), (2), 366.06(3) FS. Law Implemented 366.04(2)(f), 366.06(1), (2), (3), (4), 366.071 FS. History—New 5-27-81, Formerly 25-6.43, Amended 7-5-90, 1-31-00, 2-12-04.*

**Excerpts from Florida Statutes**

**120.541 Statement of estimated regulatory costs.—**

...

(2)(d) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.

**288.703 Definitions.** — As used in ss. 288.702-288.706, the term:

...

(6) "Small business" means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

**120.52 Definitions.** — As used in this act:

...

(18) "Small city" means any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census.

(19) "Small county" means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

# **ATTACHMENT D**



**Compliance Economic Review  
for  
Rule 25-30.120, Florida Administrative Code,  
Regulatory Assessment Fees; Water and Wastewater Utilities**

**Florida Public Service Commission**

This document is prepared in response to the requirements  
of Section 120.745, Florida Statutes

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Attachment 1: Survey on Rule 25-30.120, F.A.C., with attached rule

## **I. EXECUTIVE SUMMARY**

Section 120.745, Florida Statutes (F.S.), became effective in 2011 and requires each agency to complete an enhanced biennial review of all its existing rules and publish a report by December 1, 2011. The statute requires each agency to identify in its report each of its rules which require a compliance economic review. A compliance economic review is defined as a good faith economic analysis which includes a justification for the rule, a statement of estimated regulatory costs for the 5 year period beginning on July 1, 2011, and an explanation of the methodology used to conduct the analysis. A compliance economic review is required for each entire rule that the agency does not plan to repeal by December 31, 2012, was effective on or before November 16, 2010, and is considered by the agency to probably have any of the economic impacts described in Subparagraph 120.541(2)(a), F.S., for the 5 year period beginning on July 1, 2011.

The Florida Public Service Commission (FPSC or Commission) completed its enhanced biennial review report on November 22, 2011. Within the report, the FPSC delineated ten rules it determined were subject to a compliance economic review. Pursuant to Subparagraph 120.745(2)(h), F.S., the FPSC divided these rules into Group 1, with the accompanying compliance economic review due May 1, 2012, and Group 2, due May 1, 2013. Rule 25-30.120, F.A.C., Regulatory Assessment Fees; Water and Wastewater Utilities (the rule), is one of five rules which were included in the list of Group 2 rules appearing in the FPSC's enhanced biennial review and is the subject of this compliance economic review. The purpose of the rule is to provide for the collection of funds needed to regulate the provision of water and wastewater services to Florida customers.

The FPSC prepared and distributed rule impact surveys to each of the water and wastewater regulated entities operating in the state subject to FPSC jurisdiction. The purpose of the survey was to collect relevant information to complete the required economic analysis. Based on the survey responses and 2011 fee data, our analysis indicates that the regulatory costs associated with the rule are estimated to be approximately \$16.1 million for the 5 year period beginning on July 1, 2011. The primary benefit of Rule 25-30.120, F.A.C., is that it achieves the objective of the statutes, including the collection of funds necessary for the regulation of water and wastewater utilities' rates, service, and safety. Our analysis indicates that the rule will not have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, innovation, or productivity during the 5 year period beginning on July 1, 2011. Small businesses, small counties, and small cities are likely to be positively impacted by the rule during the 5 year period.

## **II. TECHNICAL METHODOLOGY**

Section 120.745(1)(b)2.c, F.S., requires an explanation of the technical methodology used to conduct the analysis required in Section 120.541(2), F.S., for each agency rule for which a compliance economic review is performed. The FPSC conducted a survey of each of the entities subject to the rule. The purpose of the survey was to determine the estimated impacts of the rule on the regulated entity, as well as its customers, including small businesses, small counties, and small cities. Each of the regulated entities who must comply with the rule holds the best information regarding the estimated future impacts of the rule on its operations and its customers who purchase its services and products.

In that regard, the methodology for conducting the analysis required in Section 120.541(2), F.S., first required the development and distribution of an effective survey instrument. The survey instrument was designed to collect data which would identify the estimated impacts of the rule for the 5 year period beginning on July 1, 2011. The survey instrument for the rule with attached rule language is included as Attachment 1.

The next step was to review the information contained in the survey responses. The information provided by regulated utilities was then compared with information the FPSC has in its records or otherwise available to it, in order to determine whether the responses received appeared to be consistent with similar data or information for recent periods or forecasted periods. The rule has been in effect for 30 years and some of the information pertaining to the financial impacts of the rule has already been quantified and in some cases provided to the FPSC.

The final step in the analysis involved aggregating the responses of all the respondents in order to determine the rule's quantitative and qualitative impacts as required by the statute. In cases where one or more regulated entities did not provide a response to the survey, it became necessary to rely upon otherwise available information to estimate the rule's impact(s) on that regulated entity(ies) in order to contribute as much information as possible to the rule's impact.

## **III. COMPLIANCE ECONOMIC REVIEW COMPONENTS**

### **A. Rule Justification**

Paragraph 120.745(1)(b)1., F.S., requires that compliance economic reviews include a justification for the rule which summarizes the rule's benefits. Rule 25-30.120, F.A.C., requires regulated water and wastewater utilities to complete PSC Form PSC/AFD 010-WL entitled "Large Water System Regulatory Assessment Fee Return," Form PSC/AFD 017-WL entitled "Large Wastewater System Regulatory Assessment Fee Return," PSC Form PSC/AFD 010-WS entitled "Small Water System Regulatory Assessment Fee Return" or PSC Form PSC/AFD 017-WS entitled "Small Wastewater System Regulatory Assessment Fee Return" depending on the amount of annual revenues. The rule also provides for:

1. Regulatory assessment fees equal to 4.5 percent of gross operating revenues from intrastate business, excluding sales for resale between regulated utilities, including a minimum annual fee assessment.
2. Semi-annual regulatory assessment fee due dates (January 30 and July 30) for large utilities and annual regulatory assessment fee due date (March 31) for small utilities.
3. Allowances for payment extensions for good cause, in accordance with Section 350.113, F.S.
4. Mandatory charges for payment extensions.
5. Mandatory penalties applied to delinquent amounts in accordance with Section 350.113, F.S.
6. Mandatory interest applied to delinquent amounts at a rate of 12 percent per year.

Rule 25-30.120, F.A.C., which became effective on May 18, 1983, implements Sections 350.113, 367.145, and 367.161, F.S. Section 367.145, F.S., states that each regulated water and wastewater utility shall pay a fee to the FPSC not greater than 4.5 percent of its gross operating revenues derived from intrastate business, excluding sales for resale between regulated utilities. Section 350.113, F.S., states that all regulatory assessment fees collected by the FPSC must be credited to the Florida Public Service Regulatory Trust Fund to be used in the operation of the Commission as authorized by the Legislature. The fees must be related to the cost of regulating the type of company from which the fee is collected. Since its implementation on May 18, 1983, the rule has been revised numerous times. The most recent revision was filed for adoption with the Department of State on April 17, 2013, and is expected to become effective May 7, 2013. The amendment clarifies the requirements for requesting an extension of the due date for payment of regulatory assessment fees. The amendment does not change the regulatory assessment fee rate or create additional requirements and thus does not affect this compliance economic review analysis.

The FPSC has broad jurisdiction over the regulated water and wastewater utilities operating in the state, including the regulation of rates, service, and safety. The primary benefit of the rule is that it provides for the funding necessary to achieve the broad regulatory objectives of the statutes. The regulatory objectives include the regulation of water and wastewater utilities' rates, service, and safety. The rule implements the specific statutory requirements set forth in Sections 367.145, and 350.113, F.S., in order to achieve the broader statutory objectives of Sections 367.011, F.S.

#### B. Statement of Estimated Regulatory Costs

Subparagraph 120.745(1)(b)2., F.S., requires a compliance economic review to include a statement of estimated regulatory costs as discussed in Subsection 120.541(2), F.S., for the 5 year period beginning on July 1, 2011. The statement of estimated regulatory costs for this compliance economic review of Rule 25-30.120, F.A.C., consists of Items 1 – 7 below.

##### 1. Entities and Individuals Affected

Paragraph 120.541(2)(b), F.S., requires a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule. Currently, 140 water and wastewater utilities are subject to FPSC jurisdiction. The rule indirectly affects water and wastewater service customers residing or doing business in the service territories of the regulated entities through the recovery of the rule's regulatory costs in water and wastewater service rates and charges.

## 2. Economic Analysis

### a. Regulatory Costs

Subparagraphs 120.745(1)(b)2.b. and 120.541(2)(a)3., F.S., require an economic analysis to show whether the rule, directly or indirectly, will have estimated regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate for the 5 year time period beginning on July 1, 2011. Regulatory costs identified in Subsection 120.541(2), F.S., include a good faith estimate of the transactional costs, or the direct costs to comply with rule, and a good faith estimate of the cost to the agency, or any other state and local government entities, of implementing and enforcing the rule.

Two types of transactional costs associated with the rule were reviewed. The first type of cost specifically identified in the rule is the regulatory assessment fee. The second type of cost is the administrative expense associated with the fee, typically the cost to prepare and file the fee twice per year.

Three water and wastewater utilities responded to the FPSC survey. None of them provided an estimated regulatory assessment fee amount for the prescribed 5 year period. However, the total amount of regulatory assessment fees paid for 2011 was approximately \$3.6 million. It is a reasonable assumption to expect that the amount of regulatory assessment fees collected by the FPSC from water and wastewater utilities during the 5 year period beginning on July 1, 2011, under the rule should be five times the 2011 regulatory assessment fees.

In mid-2012, however, Aqua Utilities Florida, Inc. (AUF) announced the pending sale of all its Florida systems. The Commission approved the transfer of 2 AUF systems to an exempt entity in Alachua County. In the first quarter of 2013, AUF closed on the sale of the majority of its systems with the Florida Governmental Utility Authority. AUF issued a press release announcing the sale of the 10 remaining jurisdictional systems to privately owned entities. As a result, the \$3.6 million estimated annual amount should be reduced by \$650,000 annually for the 2013 through June 30, 2016 period. In addition, Charlotte County transferred the regulation of the privately owned for profit water and wastewater utilities in the county to the Commission in early 2013. This results in an approximate annual increase of \$60,000 in regulatory assessment fees beginning in 2013. The revised net regulatory assessment fee amount for 2013 through June 2016 is approximately \$3.0 million annually. Therefore, the estimated total regulatory assessment fee amount for the 5 year period ending June 30, 2016, is approximately \$15.9 million (Table 1).

| <b>Table 1</b>  |                       |
|---|-----------------------|
| <b>Water and Wastewater Utility 5 Year<br/>Regulatory Assessment Fee Estimates<br/>Rule 25-30.120, F.A.C.</b> |                       |
| <i>Period</i>   | <i>Estimated RAFs</i> |
| 7/1-12/31/2011  | \$1,800,000           |
| 1/1-12/31/2012  | \$3,600,000           |
| 1/1-12/31/2013  | \$3,010,000           |
| 1/1-12/31/2014  | \$3,010,000           |
| 1/1-12/31/2015  | \$3,010,000           |
| 1/1-6/30/2016   | \$1,505,000           |
| <b>5 Year Total</b>   | <b>\$15,935,000</b>   |

The responding water and wastewater utilities reported that no additional transactional costs were incurred to comply with the rule. While it is possible that other water and wastewater utilities might incur some additional transactional costs, it is estimated that the amounts would be immaterial.

The cost to the FPSC to implement and enforce the rule based on a good faith estimate for the 5 year period beginning on July 1, 2011, is \$185,649, as discussed in III.B.3. (Costs to Governmental Entities) below. Other state and local government agencies are not impacted by the rule.

Based on the above analysis, the total regulatory costs associated with the rule, including both transactional costs and costs to the agency, are estimated to be approximately \$16.1 million for the 5 year period beginning on July 1, 2011. Thus, our economic analysis indicates the rule directly or indirectly is likely to result in regulatory costs in excess of \$1 million for the 5 year period beginning on July 1, 2011.

#### b. Economic Growth, Jobs, and Investment

Section 120.745 and Subparagraph 120.541(2)(a)1., F.S., require each compliance economic review to include an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years beginning on July 1, 2011. The FPSC survey of water and wastewater utilities requested information responsive to this requirement for the rule for the 5 year period beginning on July 1, 2011, for their specific service territories.

The water and wastewater utilities responded in Question 6 that the rule's impact on economic growth, private sector job creation or employment, and private sector investment was either unknown or none.

Assessing the adverse impacts implies a weighing of the costs and the benefits of the rule. As discussed in III.B.2.a., the utilities' transactional costs are estimated to be \$15.9 million over the 5 year

period. These costs are ultimately passed through to the ratepayers of the water and wastewater utilities. The primary benefit of Rule 25-30.120, F.A.C., is that it achieves the statutory objectives, including the collection of funds necessary for the regulation of water and wastewater utilities' rates, service, and safety.

The economic benefits of stable and accurate rates, adequate service, and enforcement of safety standards are not easily quantified. The rule provides the FPSC with the financial resources to regulate the rates, service, and safety for water and wastewater utilities. Considering the cost and benefits identified above, the benefits of the rule outweigh the cost of the rule. Fair and reasonable utility rates and safe water and wastewater services support, rather than hinder, economic growth, employment, and investment. In conclusion, there are no known adverse impacts on economic growth, private sector job creation or employment, or private sector investment associated with the rule.

### c. Business Competitiveness

Subparagraphs 120.745(1)(b)2., and 120.541(2)(a)2., F.S., require each compliance economic review to include an economic analysis showing whether the rule directly or indirectly is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate over the 5 year period beginning on July 1, 2011. The FPSC survey of water and wastewater utilities under the FPSC's jurisdiction requested information responsive to this requirement for the rule for the 5 year period beginning on July 1, 2011, for their specific service territories.

The water and wastewater utilities responded in Question 7 that the rule's impact on business competitiveness, productivity, and innovation was either unknown or none.

Many states other than Florida assess regulatory fees to the regulated industries under their jurisdiction, but the details of the funding methods vary. For many states, the regulatory fee is a single rate or percentage assessed across all regulated industries, including electric, gas, telecommunications, and water and wastewater. This can result in cross subsidies from one industry to another in the support of commission operations. Some commissions' operations are funded by the states' general revenue funds rather than specified commission trust funds. However, all states must support their commission operations through regulatory assessment fees, taxes, or other sources of revenue generated from the public.

In contrast to many states, Florida has established industry specific regulatory assessment fees in order to closely match the actual cost of regulating the industry. The larger question to be addressed is whether Florida's water and wastewater regulatory assessment fees, relative to the fees and/or taxes assessed by other states, are expected to reduce business competitiveness in Florida. Other states must also collect fees to support their water and wastewater regulatory operations. Given these considerations and the critical importance of water and wastewater regulation to businesses operating in Florida, it is unlikely that the rule will directly or indirectly have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate over the 5 year period beginning on July 1, 2011.



### 3. Costs to Governmental Entities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(c), F.S., require a compliance economic review to include a good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the rule, and any anticipated effect on state or local revenues. In order to provide a good faith estimate of the rule's cost to the agency, the estimated annual number of hours dedicated to implementing and enforcing the rule for each employee class was multiplied by each class's labor rate, and the resulting costs were aggregated for all employee classifications. Based on this analysis, the estimated cost to the FPSC to implement and enforce the rule is \$185,649 for the 5 year period beginning on July 1, 2011. Other state and local government agencies are not impacted by the rule.

The FPSC's estimated costs allow for the collection of funds which are used by the agency to achieve the benefits of the rule identified in III.A., above. These benefits include the regulation of rates, service, and safety of regulated water and wastewater utilities as set forth in Section 367.011, F.S.

### 4. Transactional Costs Incurred by Individuals and Entities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(d), F.S., require a compliance economic review to include a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the rule. Estimated transactional costs associated with the rule were identified in section III.B.2., above. Transactional costs to other individuals and entities are estimated to be negligible. Therefore, the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the rule, is estimated to be \$15.9 million for the 5 year time period beginning on July 1, 2011.

### 5. Impacts on Small Businesses, Small Counties, and Small Cities

Subparagraphs 120.745(1)(b)2. and 120.541(2)(e), F.S., require a compliance economic review to include an analysis of the impact of the rule on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined in Section 120.52, F.S. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses.

The water and wastewater utilities responding to the FPSC survey questions regarding small business, small county, and small city impacts of the rule for the 5 year period beginning July 1, 2011, stated that the impacts were unknown or none.

The estimated 5 year regulatory costs associated with the rule identified in the prior section (\$16.1 million) are costs which will be largely passed through, at some point in time, to the ratepayers of the water and wastewater utilities. The stated regulatory costs to small businesses, small counties, and small cities support fair and reasonable water and wastewater rates and charges and safe and adequate water and wastewater service which, in turn, support growth, employment, and investment.

In general, small businesses can typically expect to locate and maintain a presence in areas with fair and reasonable water and wastewater rates and charges and safe and adequate water and wastewater service. Conversely, unregulated water and wastewater rates and service can be expected to be a deterrent to businesses, and could have negative impacts to growth, employment, and investment. Considering the cost and benefits above, Rule 25-30.120, F.A.C., is likely to have a positive impact on small businesses, small counties, and small cities during the 5 year period beginning on July 1, 2011.

6. Additional Information

Subparagraphs 120.745(1)(b)2., and 120.541(2)(f), F.S., require a compliance economic review to include any additional information that the agency determines may be useful. No additional useful information has been identified regarding the estimated regulatory costs of Rule 25-30.120, F.A.C.

7. Alternatives

Subparagraphs 120.745(1)(b)2., and 120.541(2)(g), F.S., require a compliance economic review to include a description of any regulatory alternatives submitted under Paragraph 120.541(1)(a), F.S., and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the rule. No regulatory alternatives have been submitted pursuant to Paragraph 120.541(1)(a), F.S.

Attachments: Survey on Rule 25-30.120, F.A.C., with attached rule

COMMISSIONERS:  
RONALD A. BRISÉ, CHAIRMAN  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

STATE OF FLORIDA



MARSHALL WILLIS, DIRECTOR  
DIVISION OF ACCOUNTING AND FINANCE  
(850) 413-6900

## Public Service Commission

November 21, 2012

To: Jurisdictional Class A, B, and C Water and Wastewater Utilities

Re: Industry survey for legislative review of agency rules in effect on or before November 16, 2010  
Docket No. 110303-OT

To whom this may concern:

Please see attached staff's survey questions. Your timely response to these survey questions regarding Rule 25-30.120, Florida Administrative Code (F.A.C.) will be important to complete the Commission's Compliance Economic Review required by Sections 120.745(5), Florida Statutes. All responses should be filed in Docket No. 110303-OT by 5:00 p.m., December 20, 2012, and addressed to:

John Slemkewicz  
c/o Ann Cole  
Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

If you have any questions, please contact Todd Brown at (850) 413-6550 or [tbrown@psc.state.fl.us](mailto:tbrown@psc.state.fl.us) or Ana VanEsselstine at (850) 413-6435 or [avanesse@psc.state.fl.us](mailto:avanesse@psc.state.fl.us). Thank you for your assistance.

Sincerely,

Andrew L. Maurey  
Bureau Chief, Surveillance and Rate Filings  
Division of Accounting & Finance

**Rule 25-30.120, F.A.C. - Survey Questions**

The following survey questions apply to **Rule 25-30.120, F.A.C, Regulatory Assessment Fees**. The Company's response data to these survey questions should be provided for the entire rule, unless the response data is available by rule section, in which case we request the response data be provided by rule section. Please present data in annualized format, if possible, and all cost or benefit dollar estimates should be stated in nominal terms. Please indicate whether the data is actual or projected. Relevant definitions are attached.

1. What are the Company's estimated transactional costs (as defined in Subparagraph 120.541(2)(d), F.S.) resulting from the Company's compliance with Rule 25-30.120, F.A.C., for the five year period beginning July 1, 2011?
  - a. Please identify regulatory assessment fees separately from all other transactional costs required to comply with the rule.
2. Of the costs provided in response to question 1 above, which, if any, would be incurred by the Company if Rule 25-30.120, F.A.C., were not in effect?
3. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on small businesses (as defined by Section 288.703, F.S.) located in the Company's service territory, resulting from the implementation of 25-30.120, F.A.C., for the five year period beginning July 1, 2011?
4. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on small counties and small cities (as defined in Section 120.52, F.S.) located in the Company's service territory, resulting from the implementation of 25-30.120, F.A.C., for the five year period beginning July 1, 2011?
5. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on entities located in the Company's service territory other than those specifically identified in questions 3 and 4, resulting from the implementation of 25-30.120, F.A.C., for the five year period beginning July 1, 2011?
6. What does the Company believe is the expected impact of Rule 25-30.120, F.A.C., on economic growth, private sector job creation or employment, and private sector investment for the five year period beginning July 1, 2011 in the Company's service territory?
7. What does the Company believe is the expected impact of Rule 25-30.120, F.A.C., on business competitiveness, productivity, and innovation, including the ability of persons doing business in the Company's service territory to compete with persons doing business in states other than Florida or other domestic markets for the five year period beginning July 1, 2011?
8. What does the Company believe are the benefits of Rule 25-30.120, F.A.C.?

**25-30.120 Regulatory Assessment Fees; Water and Wastewater Utilities.**

(1) As applicable and as provided in Section 350.113, F.S., each utility shall remit a fee based upon its gross operating revenue. This fee shall be referred to as a regulatory assessment fee. Each utility shall pay a regulatory assessment fee in the amount of 0.045 of its gross revenues derived from intrastate business. The gross revenues reported for regulatory assessment fee purposes must agree with the amount reported as operating revenue on Schedule F-3 of the Operating Statement in the company's Annual Report, filed in accordance with Rule 25-30.110, F.A.C. A minimum annual regulatory assessment fee of \$25 shall be imposed if there are no revenues or if revenues are insufficient to generate a minimum annual fee.

(2) The obligation to remit the regulatory assessment fees for any year shall apply to any utility that is subject to this Commission's jurisdiction on or before December 31 of that year or for any part of that year, whether or not the utility has actually applied for or been issued a certificate.

(a) For large utilities with annual revenues of \$200,000 or more based on the most recent prior calendar year, regulatory assessment fees shall be filed with the Commission on or before July 30 for the preceding period or any part of the period from January 1 until June 30, and on January 30 for the preceding period or any part of the period from July 1 until December 31. Commission Form PSC/ECR 10-WL (02/05) entitled "Large Water System Regulatory Assessment Fee Return" and Commission Form PSC/ECR 017-WL (02/05) entitled "Large Wastewater System Regulatory Assessment Fee Return" are incorporated into this rule by reference and may be obtained from the Division of Administrative Services. The failure of a utility to receive a return form shall not excuse the utility from its obligation to timely remit the regulatory assessment fees.

(b) For small utilities with annual revenues of less than \$200,000 based on the most recent prior calendar year, regulatory assessment fees shall be filed with the Commission on or before March 31 for the preceding year ended December 31. Commission Form PSC/ECR 010-WS (02/05) entitled "Small Water System Regulatory Assessment Fee Return" and Commission Form PSC/ECR 017-WS (02/05) entitled "Small Wastewater System Regulatory Assessment Fee Return" are incorporated into this rule by reference and may be obtained from the Commission's Division of Administrative Services. The failure of a utility to receive a return form shall not excuse the utility from its obligation to timely remit the regulatory fees.

(c) For the purpose of this rule, a utility operating both a water system and a wastewater system shall consider each system separately in determining the revenue threshold for filing regulatory assessment fees on either an annual or semi-annual basis.

(d) Regulatory assessment fees are considered paid on the date they are postmarked by the United States Postal Service or received and logged in by the Commission's Division of Administrative Services in Tallahassee. Fees are considered timely paid if properly addressed, with sufficient postage and postmarked no later than the due date.

(3) If the due date falls on a Saturday, Sunday, or a legal holiday, the due date is extended to the next business day. If the fees are sent by registered mail, the date of the registration is the United States Postal Service's postmark date. If the fees are sent by certified mail and the receipt is postmarked by a postal employee, the date on the receipt is the United States Postal Service's postmark date. The postmarked certified mail receipt is evidence that the fees were delivered.

(4) Each utility shall have up to and including the due date in which to:

- (a) Remit the total amount of its fee; or
- (b) Remit an amount which the utility estimates is its full fee.

(5) Any utility that purchases water or wastewater treatment from another utility regulated by the Florida Public Service Commission is allowed to deduct the annual expense for purchased water or wastewater treatment from its gross operating revenues before calculating the amount of the regulatory assessment fees due.

(6) A utility may request from the Commission's Division of Administrative Services either a 15-day extension or a 30-day extension of its due date for payment of regulatory assessment fees or for filing its return. Commission Form PSC/ADM 124 (Rev. 01/01/05), entitled "Regulatory Assessment Fee Extension Request", is incorporated into this rule by reference and may be obtained from the Commission's Division of Administrative Services.

(a) The request for extension will be granted if the utility has applied for the extension within the time required in paragraph (b) below and the utility does not have any unpaid regulatory assessment fees, penalties or interest due from a prior period.

(b) The request for extension must be received by the Division of Administrative Services at least two weeks before the due date.

(c) Where a utility receives either a 15-day extension or a 30-day extension of its due date pursuant to this rule, the utility shall remit a charge in addition to the regulatory assessment fee set out in Section 350.113, F.S.

(7) The delinquency of any amount due to the Commission from the utility pursuant to the provisions of Section 350.113, F.S., and this rule, begins with the first calendar day after any date established as the due date either by operation of this rule or by an extension pursuant to this rule.

(a) Pursuant to Section 350.113, F.S., a penalty shall be assessed against any utility that fails to pay its regulatory assessment fee by March 31, in the following manner:

1. Five percent of the fee if the failure is for not more than 30 days, with an additional five percent for each additional 30 days or fraction thereof during the time in which the failure continues, not to exceed a total penalty of 25 percent.

2. The amount of interest to be charged is one percent for each thirty days or fraction thereof, not to exceed a total of 12 percent per annum.

(b) In addition to the penalties and interest otherwise provided, the Commission may impose an additional penalty upon a utility for failure to pay regulatory assessment fees in a timely manner in accordance with Section 367.161, F.S.

(8) Any utility that requests and receives an extension of not more than 30 days or remits, by the due date, an estimated fee payment of at least 90 percent of the actual fee due shall not be charged interest or penalty on the balance due if paid within the extension period.

(9) Any utility that fails to pay a penalty within 30 days after its assessment by the Commission shall be subject to interest applied to the penalty up to and including the date of payment of the penalty. Such interest shall be compounded monthly, based on the 30-day commercial paper rate for high-grade, unsecured notes sold through dealers by major corporations in multiples of \$1,000 as regularly published in the Wall Street Journal.

*Specific Authority 350.127(2) FS. Law Implemented 350.113, 367.145, 367.161 FS. History--New 5-18-83, Formerly 25-10.24, Amended 10-19-86, Formerly 25-10.024, Amended 11-10-86, 2-8-90, 7-7-96, 2-3-05.*

**Excerpts from Florida Statutes****120.541 Statement of estimated regulatory costs.—**

...

(2)(d) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, "transactional costs" are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.

**288.703 Definitions. —** As used in ss. 288.702-288.706, the term:

...

(6) "Small business" means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

**120.52 Definitions. —** As used in this act:

...

(18) "Small city" means any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census.

(19) "Small county" means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

**ATTACHMENT E**



**Compliance Economic Review  
for Rule 25-30.437, Florida Administrative Code,  
Financial, Rate and Engineering Information Required of  
Class A and B Water and Wastewater Utilities in an  
Application for Rate Increase**

**Florida Public Service Commission**

This document is prepared in response to the requirements  
of Section 120.745, Florida Statutes

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## I. EXECUTIVE SUMMARY

Section 120.745, Florida Statutes (F.S.), became effective in 2011 and requires each agency to complete an enhanced biennial review of all its existing rules and to publish a report by December 1, 2011. The statute requires each agency to identify in its report each of its rules which require a compliance economic review. A compliance economic review is defined as a good faith economic analysis which includes a justification for the rule, a statement of estimated regulatory costs for the 5-year period beginning on July 1, 2011, and an explanation of the methodology used to conduct the analysis. A compliance economic review is required for each rule that the agency does not plan to repeal by December 31, 2012, was effective on or before November 16, 2010, and is considered by the agency to probably have any of the economic impacts described in Section 120.541(2)(a), F.S., for the 5-year period beginning on July 1, 2011.

The Florida Public Service Commission (FPSC or Commission) completed its enhanced biennial review report on November 22, 2011. Within the report, the FPSC delineated ten rules it determined were subject to a compliance economic review. Pursuant to paragraph 120.745(2)(h), F.S., the FPSC divided these rules into Group 1, with the accompanying compliance economic review due May 1, 2012, and Group 2, due May 1, 2013. Rule 25-30.437, F.A.C., Financial, Rate and Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase, is one of five rules included in the list of Group 2 rules appearing in the FPSC's enhanced biennial review and is the subject of this compliance economic review.

To conduct the compliance economic review of the rule, the Commission distributed surveys to 44 Class A and B water and wastewater utilities. Initially, no responses to the survey were received. Staff sent the survey a second time to 15 utilities that appear regularly before the Commission to obtain responses but only one survey response was received. That survey response, as well as other data available at the FPSC, was reviewed to assess the economic impact of the rule. Based upon staff analysis, the Commission estimates the total regulatory costs associated with compliance with Rule 25-30.437, F.A.C., for Class A and B Water and Wastewater Utilities for the 5-year period beginning on July 1, 2011, to be approximately \$1.2 million. The primary benefit of Rule 25-30.437, F.A.C., is that it achieves the objective of the statutes, including setting rates which are just, reasonable, compensatory, and not unfairly discriminatory.

Our analysis indicates that the rule will not have an adverse impact on economic growth, private sector employment, private sector investment, business competitiveness, innovation, or productivity during the 5-year period beginning on July 1, 2011. Small businesses, small counties, and small cities are not likely to be impacted by the rule during the 5-year period.

## **II. TECHNICAL METHODOLOGY**

Section 120.745(1)(b)2.c., F.S., requires an explanation of the technical methodology used to conduct the analysis required in Section 120.541(2), F.S., for each agency rule for which a compliance economic review is performed. The FPSC conducted a survey of each of the entities subject to the rule, the purpose of which was to determine the estimated impacts of the rule on the regulated entity, as well as its customers, including small businesses, small counties, and small cities. The FPSC developed and distributed a survey designed to collect data which would reveal the specific impacts of Rule 25-30.437, F.A.C., for the 5-year period beginning on July 1, 2011 (Attachment 1). The FPSC used routine regulatory communications in conducting this survey.

The next step was to review the information contained in the survey response. This information was then compared with information the FPSC has in its records in order to determine whether the response received appeared to be consistent with similar data or information for recent periods or forecasted periods. Rule 25-30.437, F.A.C., has been in effect for 36 years and some of the information pertaining to the financial impacts of the rule has already been quantified and provided to the FPSC. As a part of its review of in-house information, the FPSC examined documents filed by outside parties or developed by the FPSC during its rulemaking proceedings, including any previously performed Statements of Estimated Regulatory Costs.

The final step in the analysis involved combining the survey response with other information on file with the FPSC to estimate the rule's impacts on those entities in order to contribute as much information as possible to the statewide impacts.

## **III. ECONOMIC REVIEW COMPONENTS**

### **A. Rule Justification**

Paragraph 120.745(1)(b)1., F.S., requires that compliance economic reviews include a justification for the rule which summarizes the rule's benefits. Rule 25-30.437, F.A.C., requires water and wastewater utilities to complete FPSC Forms PSC/ECR 19-W (11/93), entitled "Class A Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing Requirements," or PSC/ECR 20-W (11/93), entitled "Class B Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing Requirements."

The FPSC has broad jurisdiction over privately-owned water and wastewater utilities in 37 of Florida's 67 counties, including the regulation of rates and service. Rule 25-30.437, F.A.C., which became effective June 10, 1975, implements Sections 367.081 and 367.082, F.S. Section 367.081, F.S., states that the FPSC shall, either upon request by a utility or upon its own motion, fix rates which are just, reasonable, compensatory, and not unfairly discriminatory. Without the requirement to provide the information supplied by Rule 25-30.437, F.A.C., the information would still need to be provided in response to the FPSC staff's discovery requests.

### **B. Statement of Estimated Regulatory Costs**

Subparagraph 120.745(1)(b)2., F.S., requires a compliance economic review to include a statement of estimated regulatory costs as discussed in Subsection 120.541(2), F.S., for the 5-year

period beginning on July 1, 2011. The statement of estimated regulatory costs for this compliance economic review of Rule 25-30.437, F.A.C., consists of Items 1 – 7 below.

1. Entities and Individuals Affected

Paragraph 120.541(2)(b), F.S., requires a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals likely to be affected by the rule. Rule 25-30.437, F.A.C., affects 12 Class A and 32 Class B utilities.<sup>1</sup>

2. Economic Analysis

a. Regulatory Costs

Pursuant to Subparagraphs 120.745(1)(b)2.b., F.S., and 120.541(2)(a)3., F.S., an economic analysis shall show whether the rule, directly or indirectly, will have estimated regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within the 5-year time period beginning on July 1, 2011. Regulatory costs identified in Subsection 120.541(2), F.S. include a good faith estimate of the transactional costs, or the direct costs to comply with the rule, and a good faith estimate of the cost to the agency, or any other state and local government entities, of implementing and enforcing the rule.

The transactional costs that were reviewed included the activities required to file complete minimum filing requirements (MFRs) for a rate increase request by a Class A or B water and wastewater company. Class A and B MFRs may be prepared in-house, by an outside consultant, or a combination thereof, and each utility has its own unique approach. Based on one survey response, the transactional costs for the utility were estimated to be \$150,000. However, FPSC staff notes that this amount is actually associated with processing the entire rate case for this utility. Staff estimated the transactional costs for compliance with Rule 25-30.437, F.A.C., to be \$37,000 for that utility.

The FPSC staff also analyzed 3 recent rate cases for expenses associated with submitting MFRs. These cases were consistent with the \$37,000 estimate for the utility responding to the survey. FPSC staff then estimated the transactional costs to utilities by using an average cost of \$37,000 and an estimate of expected activity based on the average number of rate case applications filed in the past 10 years. While the utilities originally incur these costs when filing a request for a rate increase, the costs are subsequently amortized and recovered through the water and wastewater rates of the companies' residential and business customers. Table 1 displays the estimated transactional costs of the rule.

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<sup>1</sup> In mid-2012, Aqua Utilities Florida, Inc. (AUF) announced the pending sale of all its Florida systems. The Commission approved the transfer of two AUF systems to an exempt entity in Alachua County. In the first quarter of 2013, AUF closed on the sale of the majority of its systems with the Florida Governmental Utility Authority. AUF issued a press release announcing the sale of the 10 remaining jurisdictional systems to privately-owned entities. Based on the above, AUF was excluded in the estimated transactional costs for this rule.

**Table 1**

**Estimated 5-Year Transactional Costs of  
Rule 25-30.437, F.A.C**

| Class   | Estimated #<br>of Cases | Average<br>Transactional<br>Cost | Estimated 5<br>Year Cost of<br>Compliance |
|---------|-------------------------|----------------------------------|---|
| Class A | 11                      | \$37,000                         | \$407,000                                 |
| Class B | 20                      | \$37,000                         | \$740,000                                 |
|         |                         |                                  |   |
| Total   |                         |                                  | \$1.15 million                            |

Regulatory costs include not only transactional costs but also a good faith estimate of the costs to the agency to implement and enforce the rule. The cost to the FPSC to implement and enforce the rule based on a good faith estimate of the costs to be incurred for the 5-year period beginning on July 1, 2011, is \$44,876, as discussed in section III.B.3. (Costs to Governmental Entities) below. Other state and local government agencies are not impacted by the rule.

Based on the above analysis, the total estimated regulatory costs associated with the rule including both estimated transactional costs to the Class A and B companies and estimated costs to the FPSC, are approximately \$1.19 million for the 5-year period beginning on July 1, 2011. Thus, the economic analysis indicates the rule directly or indirectly is likely to result in regulatory costs in excess of \$1 million within 5 years beginning on July 1, 2011.

**b. Economic Growth, Jobs, and Investment**

Sections 120.745 and 120.541 (2)(a)1., F.S., require each compliance economic review to show whether the rule directly or indirectly is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within a 5-year period beginning on July 1, 2011. The FPSC survey to all Class A and B water and wastewater companies specifically requested information responsive to this requirement for their specific territories. The survey response indicated that Rule 25-30.437, F.A.C., will have a negligible impact on economic growth, private sector job creation or employment, or private sector investment.

Assessing the adverse impacts implies a weighing of the costs and the benefits of the rule. As discussed in III.B.2.a., the utilities' transactional costs are estimated to be \$1.15 million over the 5 year period. These costs are ultimately passed through to the ratepayers of the affected water and wastewater utilities. The primary benefit of Rule 25-30.437, F.A.C., is that it achieves the statutory objectives of the collection of the data necessary to review the water and wastewater utilities' petitions for a change in rates.

The economic benefits of stable and accurate rates and adequate service are not easily quantified. The rule provides the FPSC with the analytical data to help evaluate the rates and service for the water and wastewater utilities. Considering the cost and benefits identified above, the benefits of the rule outweigh the cost of the rule. Fair and reasonable utility rates support, rather than hinder,

economic growth, employment, and investment. In conclusion, there are no known adverse impacts on economic growth, private sector job creation or employment, or private sector investment associated with the rule.

### c. Business Competitiveness

Subparagraphs 120.541(2)(a)2. and 120.745(1)(b)2., F.S., require each compliance economic review to show whether the rule directly or indirectly is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity or innovation in excess of \$1 million in the aggregate within 5 years beginning on July 1, 2011. The FPSC survey to all Class A and B water and wastewater companies specifically requested information responsive to this requirement for their specific territories. The survey response indicated that the rule will have either very little or no impact at all on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity or innovation.

### 3. Costs to Governmental Entities

Subparagraphs 120.541(2)(c) and 120.745(1)(b)2., F.S., require a compliance economic review to include a good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the rule. In order to provide a good faith estimate of the cost to the agency, the annual number of hours dedicated to implementing and enforcing Rule 25-30.437, F.A.C., specific to each employee classification, was multiplied by the associated labor rates, and the resulting costs were aggregated across all employee classifications. The total estimated FPSC costs associated with implementing and enforcing the rule over the 5-year period beginning on July 1, 2011, are \$44,876. Other state and local government agencies are not directly impacted by the rule.

### 4. Transactional Costs Incurred by Individuals and Entities

Subparagraphs 120.541(2)(d) and 120.745(1)(b)2., F.S., require a compliance economic review to include a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. Transactional costs were identified in section III.B.2. above. Transactional costs to other individuals and entities are estimated to be negligible. Therefore, the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule for the 5-year period beginning on July 1, 2011, are estimated to be approximately \$1.15 million.

### 5. Impacts on Small Businesses, Small Counties, and Small Cities

Paragraphs 120.541(2)(e) and 120.745(1)(b)2., F.S., require a compliance economic review to include an analysis of the impact of the rule on small businesses, as defined by Section 288.703, F.S., and on small counties, and small cities, as defined in Section 120.52, F.S. The impact analysis for small businesses must include the basis for the agency's decision not to implement alternatives that would reduce adverse impacts on small businesses. The survey response indicated that the rule will have either negligible or no impact on small businesses or small counties.

6. Additional Information

Paragraphs 120.541(2)(f) and 120.745(1)(b)2., F.S., require a compliance economic review to include any additional information that the agency determines may be useful. No additional useful information has been identified regarding the estimated regulatory costs of Rule 25-30.437, F.A.C.

7. Alternatives

Paragraphs 120.541(2)(g) and 120.745(1)(b)2., F.S., require a compliance economic review to include a description of any regulatory alternatives submitted under Section 120.541(1)(a), F.S., and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the rule. No regulatory alternatives have been submitted pursuant to Paragraph 120.541(1)(a), F.S.

Attachments: Survey of Rule 25-30.437, F.A.C., with attached rule.



COMMISSIONERS:  
RONALD A. BRISÉ, CHAIRMAN  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

STATE OF FLORIDA



MARSHALL WILLIS, DIRECTOR  
DIVISION OF ACCOUNTING AND FINANCE  
(850) 413-6900

## Public Service Commission

November 21, 2012

To: Jurisdictional Class A and B Water and Wastewater Utilities

Re: Industry survey for legislative review of agency rules in effect on or before November 16, 2010  
Docket No. 110303-OT

To whom this may concern:

Please see attached staff's survey questions. Your timely response to these survey questions regarding Rule 25-30.437, Florida Administrative Code (F.A.C.) will be important to complete the Commission's Compliance Economic Review required by Subsection 120.745(5), Florida Statutes. All responses should be filed in Docket No. 110303-OT by 5:00 p.m., December 20, 2012, and addressed to:

Bart Fletcher  
c/o Ann Cole  
Commission Clerk  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0850

If you have any questions, please contact Todd Brown at (850) 413-6550 or [tbrown@psc.state.fl.us](mailto:tbrown@psc.state.fl.us) or Ana VanEsselstine at (850) 413-6435 or [avanesse@psc.state.fl.us](mailto:avanesse@psc.state.fl.us). Thank you for your assistance.

Sincerely,

/s/ Bart Fletcher  
Bart Fletcher  
Public Utilities Supervisor  
Division of Accounting and Finance

**Rule 25-30.437, F.A.C. - Survey Questions**

The following survey questions apply to **Rule 25-30.437, F.A.C, Minimum Filing Requirements**. The Company's response data to these survey questions should be provided for the entire rule, unless the response data is available by rule section, in which case we request the response data be provided by rule section. Please present data in annualized format, if possible, and all cost or benefit dollar estimates should be stated in nominal terms. Please indicate whether the data is actual or projected. Relevant definitions are attached.

1. What are the Company's estimated transactional costs (as defined in Subparagraph 120.541(2)(d), F.S.) resulting from the Company's compliance with Rule 25-30.437, F.A.C., for the five-year period beginning July 1, 2011?
2. For the five-year period beginning July 1, 2011, which requirements of Rule 25-30.437, F.A.C., if any, would be performed by the Company assuming the rule were not in effect? Please explain.
  - a. For each of the requirements identified in question 2, what are the estimated transactional costs associated with such requirements for the five-year period beginning July 1, 2011?
3. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on small businesses (as defined by Section 288.703, F.S.) located in the Company's service territory, resulting from the implementation of 25-30.437, F.A.C., for the five-year period beginning July 1, 2011?
4. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on small counties and small cities (as defined in Section 120.52, F.S.) located in the Company's service territory, resulting from the implementation of 25-30.437, F.A.C., for the five-year period beginning July 1, 2011?
5. What is the Company's estimate of the likely impact, stated in terms of costs and/or benefits, on entities located in the Company's service territory other than those specifically identified in questions 3 and 4, resulting from the implementation of 25-30.437, F.A.C., for the five-year period beginning July 1, 2011?
6. What does the Company believe is the expected impact of Rule 25-30.437, F.A.C., on economic growth, private sector job creation or employment, and private sector investment for the five-year period beginning July 1, 2011 in the Company's service territory?

7. What does the Company believe is the expected impact of Rule 25-30.437, F.A.C., on business competitiveness, productivity, and innovation, including the ability of persons doing business in the Company's service territory to compete with persons doing business in states other than Florida or other domestic markets for the five-year period beginning July 1, 2011?
  
8. What does the Company believe are the benefits of Rule 25-30.437, F.A.C.?

**25-30.437 Financial, Rate and Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase.**

Each Class A or B utility applying for a rate increase shall provide the information required by Commission Form PSC/ECR 19-W (11/93), entitled "Class A Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing Requirements", or PSC/ECR 20-W (11/93), entitled "Class B Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing Requirements", whichever is applicable. These forms are incorporated into this rule by reference and may be obtained from the Director, Division of Economic Regulation, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850. In compiling the required schedules, additional instructions are set forth below:

(1) Each section of this form shall be indexed and tabbed, including a table of contents listing the page numbers of each schedule.

(2) If information requested in the form described above is not applicable to the applicant, so state and provide an explanation on the specific schedule.

(3) If a projected test year is used, provide a complete set of Commission Form PSC/ECR 19-W (for Class A utilities) or PSC/ECR 20-W (for Class B utilities) (as described above) which require a designation of historical or projected information. Such schedules shall be submitted for the historical base year, and any year subsequent to the base year and prior to the projected test year, in addition to the projected test year. If no designation is shown on a schedule, submit that schedule for the test year only. In lieu of providing separate pages for the above required schedules, the information required can be combined on the same page by adding additional columns. In the rate base schedules, Section A, the beginning and end of year balances shall be shown. For any intermediate period or year, only the year-end balance shall be shown. A schedule shall also be included which describes in detail all methods and bases of projection, explaining the justification for each method or basis employed. If an historical test year is used, Schedule E-13 is not required.

(4) Only two copies of Schedule E-14, entitled Billing Analysis Schedules, shall be filed with the application. Each copy shall be submitted in a separate binder from the other required information.

(5) If a petition for interim rates is filed, a utility shall demonstrate that it is earning outside the range of reasonableness on rate of return calculated in accordance with Section 367.082(5), F.S. In doing such, the utility shall submit schedules of rate base, cost of capital and net operating income on an historical basis, with schedules of all adjustments thereto, consistent with Commission Form PSC/ECR 19-W (for a Class A utility) or PSC/ECR 20-W (for a Class B utility), (described above).

(6) In proposing rates, the utility shall use the base facility and usage charge rate structure, unless an alternative rate structure is adequately supported by the applicant. The base facility charge incorporates fixed expenses of the utility and is a flat monthly charge. This charge is applicable as long as a person is a customer of the utility, regardless of whether there is any usage. The usage charge incorporates variable utility expenses and is billed on a per 1,000 gallon or 100 cubic feet basis in addition to the base facility charge. The rates are first established with the 5/8" x 3/4" meter as the foundation. For meter sizes larger than 5/8", the base facility charge shall be based on the usage characteristics.

*Specific Authority 367.121 FS. Law Implemented 367.081, 367.082 FS. History—New 6-10-75, Amended 10-16-77, 3-26-81, Formerly 25-10.176, Amended 11-10-86, 6-25-90, 11-30-93.*

**Excerpts from Florida Statutes**

**120.541 Statement of estimated regulatory costs.—**

...

(2)(d) A good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. As used in this section, “transactional costs” are direct costs that are readily ascertainable based upon standard business practices, and include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used or procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring and reporting, and any other costs necessary to comply with the rule.

**288.703 Definitions. —** As used in ss. 288.702-288.706, the term:

...

(6) “Small business” means an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

**120.52 Definitions. —** As used in this act:

...

(18) “Small city” means any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census.

(19) “Small county” means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.