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GENERAL COUNSEL  
S. CURTIS KISER  
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Public Service Commission

June 9, 2014

RECEIVED-FPSC  
14 JUN -9 PM 12:48  
COMMISSION  
CLERK

Patricia Nelson  
Deputy Director, Office of Fiscal Accountability and  
Regulatory Reform at the Executive Office of the Governor  
[Patricia.Nelson@eog.myflorida.com](mailto:Patricia.Nelson@eog.myflorida.com)

SENT VIA E-MAIL

RE: 140093-WS; Rule 25-30.455, FAC, Staff Assistance in Rate Cases, Rule 25-30.456, FAC, Staff Assistance in Alternative Rate Setting, and Rule 25-30.457, FAC, Limited Alternative Rate Increase.

Dear Ms. Nelson,

The Commission has determined that the above rules will affect small businesses. Accordingly, pursuant to Section 120.54(3)(b), Florida Statutes, enclosed is a copy of the Florida Administrative Register (FAR) notice of the proposed rules, which were published in the June 9, 2014 edition of the FAR. Also enclosed is a copy of the statement of estimated regulatory costs (SERC). The SERC concludes that the proposed rule amendments will not have an adverse affect on small business.

If there are any questions with respect to these rules, please contact me at (850) 413-6224 or [rgervasi@psc.state.fl.us](mailto:rgervasi@psc.state.fl.us).

Sincerely,

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

Rosanne Gervasi  
Senior Attorney

Enclosures

cc: Office of the Commission Clerk

## Notice of Proposed Rule

### **PUBLIC SERVICE COMMISSION**

#### **RULE NOS.:      RULE TITLES:**

25-30.455      Staff Assistance in Rate Cases  
25-30.456      Staff Assistance in Alternative Rate Setting  
25-30.457      Limited Alternative Rate Increase

**PURPOSE AND EFFECT:** Pursuant to Section 367.0814(1), F.S., Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., would be amended to increase the total gross annual operating revenues of water and wastewater utilities eligible for staff assistance in rate cases, alternative rate setting, and limited alternative rate increases from \$250,000 to \$275,000 or less for water or wastewater service, and from \$500,000 to \$550,000 or less for water and wastewater service combined. These rules would also be amended to remove from the Commission's consideration in ruling on an application whether the applicant has complied in a timely manner with all Commission decisions and requests for 2 years prior to the filing of the application. In addition, Rule 25-30.457, F.A.C., would be amended to also remove from the Commission's consideration in ruling on an application for limited alternative rate increase whether the utility has been granted a limited alternative rate increase within 3 years prior to the receipt of the application, and whether the utility is currently in compliance with any applicable water management district permit conditions concerning rate structure.

Docket No. 140093-WS

**SUMMARY:** Pursuant to Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., the total gross annual operating revenues of water and wastewater utilities eligible for staff assistance in rate cases, alternative rate setting, and limited alternative rate increases is currently \$250,000 or less for water or wastewater service, and \$500,000 or less for water and wastewater service combined. The rule amendments would increase those total gross annual operating revenues to \$275,000 or less for water or wastewater service, and to \$550,000 or less for water and wastewater service combined. Moreover, in ruling on an application pursuant to these rules, the Commission would no longer consider whether the applicant has complied in a timely manner with all Commission decisions and requests for 2 years prior to the filing of the application. In addition, in ruling on an application pursuant to Rule 25-30.457, F.A.C., the Commission would no longer consider whether the utility has been granted a limited alternative rate increase within 3 years prior to the receipt of the application, or whether the utility is currently in compliance with any applicable water management district permit conditions concerning rate structure.

#### **SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency.

The SERC examined the factors required by Section 120.541(2)(c), FS, and concluded that the rule amendments will not have an adverse impact on economic growth, business competitiveness, or small business and that there would likely be regulatory cost savings to the entities required to comply with these rules.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 350.127(2), 367.0814, 367.121 FS.

**LAW IMPLEMENTED:** 367.0814 FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.**

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Rosanne Gervasi, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6224, rgervasi@psc.state.fl.us

**THE FULL TEXT OF THE PROPOSED RULE IS:**

25-30.455 Staff Assistance in Rate Cases.

(1) Water and wastewater utilities whose total gross annual operating revenues are ~~\$275,000~~ \$250,000 or less for water service or ~~\$275,000~~ \$250,000 or less for wastewater service, or ~~\$550,000~~ \$500,000 or less on a combined basis, may petition the Commission for staff assistance in rate applications by submitting a completed staff assisted rate case application. ~~In accordance with Section 367.0814(4), F.S., a utility that requests staff assistance waives its right to protest by agreeing to accept the final rates and charges approved by the Commission unless the final rates and charges would produce less revenue than the existing rates and charges.~~ If a utility that chooses to utilize the staff assistance option employs outside experts to assist in developing information for staff or to assist in evaluating staff's schedules and conclusions, the reasonable and prudent expense will be recoverable through the rates developed by staff. A utility that chooses not to exercise the option of staff assistance may file for a rate increase under the provisions of Rule 25-30.443, F.A.C.

(2) ~~The appropriate application form, Commission Form PSC/AFD 2-W (11/86), entitled "Application for Staff Assisted Rate Case," is incorporated into this rule by reference and is available at: [hyperlink]. Upon request, the Division of Accounting and Finance shall provide the potential applicant with the appropriate application form, Commission Form PSC/AFD 2-W (Rev. 11/86), "Application for Staff Assisted Rate Case", which is incorporated by reference in this rule, and a copy of Rule 25-30.455, F.A.C., governing staff assisted rate cases. The form may also be obtained from the Commission's Division of Accounting and Finance, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.~~

(3) ~~Upon completion of the form, the applicant shall file it with petitioner may return it to the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 0870.~~

(4) ~~Upon receipt of a completed application, the Office of Commission Clerk shall acknowledge its receipt, assign a docket number for identification, and shall forward the application to a committee comprised of one member each of the Commission's Divisions of Accounting and Finance, Office of Auditing and Performance Analysis, and Office of General Counsel.~~

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

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

(b) ~~Initially, determinations of eligibility will may be conditional, pending an actual examination of the condition of the applicant's petitioner's books and records. After an initial determination of eligibility, the Office of Auditing and Performance Analysis committee shall examine the books and records of the utility before making a final determination of eligibility.~~

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

(5)(6) ~~Upon making its final determination of eligibility, the Commission will notify the applicant in writing as to whether the application is officially accepted or denied. Upon reaching a decision to officially accept or deny the application, the Deputy Executive Director, Technical shall notify the petitioner by letter and initiate staff assistance for the accepted applicant. If the application is accepted, a staff assisted rate case will be initiated. If the application is denied, the notification of application denial will state the deficiencies in the application with reference to the criteria set out in subsection (7) of this rule.~~

(6)(7) ~~The official date of filing will be 30 days after the date of the written notification to letter notifying the applicant of the Commission's official acceptance of the application by the Commission.~~

(7)(8) ~~In determining arriving at a recommendation whether to grant or deny the application petition, the Commission will consider the following criteria: following shall be considered:~~

- (a) ~~Whether the applicant petitioner qualifies for staff assistance pursuant to subsection (1) of this rule;~~
- (b) ~~Whether the applicant's petitioner's books and records are organized consistent with Rule 25-30.110,~~

F.A.C., so as to allow Commission personnel to verify costs and other relevant factors within the 30-day time frame set out in this rule;

(c) Whether the applicant petitioner has filed annual reports;

(d) Whether the applicant petitioner has paid applicable regulatory assessment fees;

(e) Whether the applicant petitioner has at least one year of 1-year's actual experience in utility operation;

(f) Whether the applicant petitioner has filed additional relevant information in support of eligibility, together with reasons why the information should be considered; and

(g) Whether the utility was granted a rate case increase within the 2-year period prior to the receipt of the application under review. Whether the petitioner has complied in a timely manner with all Commission decisions and requests affecting water and wastewater utilities for 2 years prior to the filing of the application under review;

(h) Whether the utility has applied for a staff assisted rate case within the 2-year period prior to the receipt of the application under review.

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

(9)(10) An aggrieved applicant petitioner may request reconsideration of the application denial, which will shall be decided by the full Commission.

(10)(11) A substantially affected person may file a petition to protest the Commission's proposed agency action in a staff assisted rate case within 21 days of issuance of the Notice of Proposed Agency Action Order, as set forth in Rule 28-106.111 25-22.036, F.A.C.

(11) A petition to protest the Commission's proposed agency action shall conform to Rule 28-106.201, F.A.C.

(12) In the event of a protest of the Commission's Notice of Proposed Agency Action Order (PAA Order) in a staff assisted rate case, the utility shall:

(a) Provide prefiled direct testimony in accordance with the Order Establishing Procedure procedural order issued in the case. At a minimum, that testimony shall adopt the Commission's Proposed Agency Action PAA Order in the case;

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

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

(d) Meet all other requirements of the Order Establishing Procedures.

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

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

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

(b) Meet all other requirements of the Order Establishing Procedures; and

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

*Rulemaking Authority 350.127(2), 367.0814 371.0814, 367.121 FS. Law Implemented 367.0814 FS. History—New 12-8-80, Formerly 25-10.180, Amended 11-10-86, 8-26-91, 11-30-93, 1-31-00, 12-16-08, \_\_\_\_\_.*

#### 25-30.456 Staff Assistance in Alternative Rate Setting.

(1) As an alternative to a staff assisted rate case as described in Rule 25-30.455, F.A.C., water and wastewater utilities whose total gross annual operating revenues are \$275,000 \$250,000 or less for water service or \$275,000 \$250,000 or less for wastewater service, or \$550,000 \$500,000 or less on a combined basis, may petition the

Commission for staff assistance in alternative rate setting by submitting a completed staff assisted application for alternative rate setting.

(2) ~~The appropriate application form, Commission Form PSC/AFD 25 (11/93), entitled "Application for Staff Assistance for Alternative Rate Setting," is incorporated into this rule by reference and is available at: [hyperlink]. Upon request, the Division of Accounting and Finance shall provide the potential applicant with the application form, PSC/AFD 25 (11/93), titled "Application for Staff Assistance for Alternative Rate Setting" which is incorporated by reference in this rule, and a copy of the rules governing Staff Assistance in Alternative Rate Setting. The form may also be obtained from the Commission's Division of Accounting and Finance, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.~~

(3) ~~Upon completion of the form, the applicant shall file it with may return it to the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 0870.~~

(4) ~~Upon receipt of an application, the Office of Commission Clerk shall acknowledge its receipt, assign a docket number for identification, and shall forward the application to the Commission's Division of Accounting and Finance.~~

(4)(5) ~~Within 30 days of receipt of the completed application, the Commission will Division of Accounting and Finance shall evaluate the application and determine the applicant's petitioner's eligibility for staff assistance.~~

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

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

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

(5)(6) ~~Upon making its final determination of eligibility, the Commission will notify the applicant in writing as to whether the application is officially accepted or denied. Upon reaching a decision to officially accept or deny the application, the Deputy Executive Director, Technical shall notify the applicant by letter and initiate staff assistance for the accepted applicant. If the application is accepted, staff assistance in alternative rate setting will be initiated. If the application is denied, the notification of application denial will state the deficiencies in the application with reference to the criteria set out in subsection (7) of this rule.~~

(6)(7) ~~The official date of filing will be 30 days after the date of the written notification to the applicant of the Commission's official acceptance of the application by the Commission.~~

(7)(8) ~~In determining deciding whether to grant or deny the application, the Commission will consider the following criteria: following shall be considered:~~

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

(b) ~~Whether the applicant's books and records are organized consistent with Rule 25-30.110, F.A.C., so as to allow Commission personnel to verify costs and other relevant factors within the 30-day time frame set out in this rule;~~

(c)(b) ~~Whether the applicant has filed annual reports;~~

(d)(e) ~~Whether the applicant has paid applicable regulatory assessment fees;~~

(e)(d) ~~Whether the applicant has at least one year of 1 year's actual experience in utility operation;~~

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

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

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

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

~~(9)~~(10) An aggrieved applicant may request reconsideration of the application denial, which will shall be decided by the full Commission.

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

~~(11)~~(12) The Commission will shall limit the maximum increase in operating revenues to 50 percent of test year operating revenues.

~~(12)~~(13) The Commission will shall vote on a proposed agency action (PAA) recommendation establishing rates no later than 90 days from the official filing date as established in subsection ~~(6)~~ of this rule. 25-30.455(7), F.A.C.

~~(13)~~(14) A substantially affected person may file a petition to protest the Commission's Proposed Agency Action PAA Order regarding a staff assisted alternative rate setting application within 21 days of issuance of the Notice of Proposed Agency Action Order, as set forth in Rule ~~28-106.111~~ 28-106.201, F.A.C.

~~(14)~~ A petition to protest the Commission's proposed agency action shall conform to Rule 28-106.201, F.A.C.

(15) In the event of protest of the Proposed Agency Action PAA Order by a substantially affected person party, the rates established in the Proposed Agency Action PAA Order may be implemented on a temporary basis, subject to refund with interest in accordance with Rule 25-30.360, F.A.C. At that time, the utility may elect to pursue rates set pursuant to the rate base determination provisions of Rule 25-30.455, F.A.C.

(16) In the event of a protest, the maximum increase established in subsection ~~(11)~~ of this rule ~~(13)~~ above shall no longer apply.

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

(a) Provide prefiled direct testimony in accordance with the Order Establishing Procedure ~~procedural order issued~~ in the case. At a minimum, that testimony shall adopt the Commission's Proposed Agency Action PAA Order ~~in the case~~;

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

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

(d) Meet all other requirements of the Order Establishing Procedures.

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

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

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

(b) Meet all other requirements of the Order Establishing Procedures; and

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

*Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History—New 11-30-93, Amended 1-31-00, 12-16-08, \_\_\_\_\_.*

#### 25-30.457 Limited Alternative Rate Increase.

(1) As an alternative to a staff assisted rate case as described in Rules 25-30.455, F.A.C., or to staff assistance in alternative rate setting as described in Rule and 25-30.456, F.A.C., water utilities whose total gross annual operating

revenues are ~~\$275,000~~ \$250,000 or less for water service and wastewater utilities whose total gross annual operating revenues are ~~\$275,000~~ \$250,000 or less for wastewater service may petition the Commission for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service by filing with the Office of Commission Clerk submitting a completed application that includes the information required by subsections (7), (8) and (9) of this rule. In accordance with Section 367.0814(6), F.S., a utility that requests staff assistance waives its right to protest by agreeing to accept the final rates and charges approved by the Commission unless the final rates and charges would produce less revenue than the existing rates and charges. The original and two copies of the application shall be filed with the Office of Commission Clerk.

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

~~(2)(3)~~ Within 30 days of receipt of the completed petition application, the Commission will ~~Division of Accounting and Finance~~ shall evaluate the petition application and determine the petitioner's eligibility for a limited alternative rate increase.

(3) The Commission will notify the petitioner in writing as to whether the petition is accepted or denied. If the petition is accepted, staff assistance in alternative rate setting will be initiated. If the petition is denied, the notification of petition denial will state the deficiencies in the petition with reference to the criteria set out in subsection (5) of this rule.

~~(4)~~ Upon reaching a decision to officially accept or deny the application, the Deputy Executive Director, Technical shall notify the petitioner by letter. If the application is accepted, the Director will initiate limited alternative rate setting. If the application is denied, the letter shall state the reasons for denial.

~~(4)(5)~~ The official date of filing will be 30 days after the date of the written notification to the petitioner of the Commission's official acceptance of the petition application by the Commission.

(5) In determining whether to grant or deny the petition, the Commission will consider the following criteria:

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

(b) Whether the petitioners' books and records are organized consistent with Rule 25-30.110, F.A.C., so as to allow Commission personnel to verify costs and other relevant factors within the 30-day time frame set out in this rule;

(c) Whether the petitioner has filed annual reports;

(d) Whether the petitioner has paid applicable regulatory assessment fees;

(e) Whether the petitioner has at least one year of experience in utility operation;

(f) Whether the petitioner has filed additional relevant information in support of eligibility together with reasons why the information should be considered;

(g) Whether the utility was granted a rate case increase within the 2-year period prior to the receipt of the petition under review;

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

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

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

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

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

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

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

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

~~(g)~~ The utility is currently in compliance with any applicable water management district permit conditions

concerning rate structure; and

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

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

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

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

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

1. If the petitioner is a corporation, the date of incorporation and the names and addresses of all persons who own five percent or more of the petitioner's stock; or

2. If the petitioner is not a corporation, the names and addresses of the owners of the business.

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

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

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

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

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

(11)(12) The petition application will be approved, denied, or approved with modifications within 90 days from the official filing date as established in subsection (4) of this rule (5) above.

(12)(13) In consideration of subsections (11) and (12), the utility agrees to hold Any revenue increase granted under the provisions of this rule shall be held subject to refund with interest in accordance with Rule 25-30.360, F.A.C., for a period of 15 months after the filing of the utility's annual report required by Rule 25-30.110, F.A.C., Section 367.121, F.S., for the year the adjustment in rates was implemented.

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

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

(15)(16) In the event of a protest of the Proposed Agency Action (PAA) Order pursuant to Rule 28-106.111 28-106.201, F.A.C., by a substantially affected person other than the utility, unless the Proposed Agency Action PAA Order proposes a rate reduction, the utility may implement the rates established in the Proposed Agency Action PAA Order on a temporary basis subject to refund with interest in accordance with Rule 25-30.360, F.A.C., upon the utility filing a staff assisted rate case application pursuant to Rule 25-30.455, F.A.C., within 21 days of the date the protest is filed.

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

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

*Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History—New 3-15-05, Amended 12-*



16-08\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cheryl Bulecza-Banks

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5, 2014

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 40, Number 64, April 2, 2014

State of Florida



## Public Service Commission

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

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

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**DATE:** May 5, 2014  
**TO:** Rosanne Gervasi, Senior Attorney, Office of the General Counsel  
**FROM:** C. Donald Rome, Jr., Public Utility Analyst II, Division of Economics *CDR*  
**RE:** Statement of Estimated Regulatory Costs for Proposed Amendments to Rules 25-30.455, 25-30.456, and 25-30.457, Florida Administrative Code (F.A.C.)

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Section 367.0814, Florida Statutes (F.S.), was amended during the 2008 legislative session to require that staff assistance in ratemaking be offered to water and wastewater utilities that have annual revenues of \$250,000 or less or \$500,000 or less on a combined water and wastewater basis. The statute also requires that the annual revenue threshold level be adjusted every five years based on the most recent cumulative five years of the price index established by the Commission pursuant to Paragraph 367.081(4)(a), F.S. The recommended rule revisions implement the changes to the eligibility requirements for staff assistance in rate cases in conformance with statute. The effect of the recommended changes would be to raise the threshold level for eligibility to \$275,000 or less or \$550,000 or less on a combined basis in the total gross annual operating revenues for a water or wastewater utility. As a result, this would enable three additional utilities to qualify for staff assistance in rate proceedings. As noted in the attached Statement of Estimated Regulatory Costs (SERC), the amended rules would be applicable overall to 116 utilities.

Rule 25-30.455, F.A.C., Staff Assistance in Rate Cases, defines the eligibility requirements for a water or wastewater utility to qualify for a Staff Assisted Rate Case (SARC). The recommended rule revisions increase the threshold amount of total gross annual operating revenues to \$275,000 or \$550,000 on a combined basis. Procedural sections of the rule establish procedures for a utility to apply for a SARC, the conditions under which a SARC will be conducted, and the time frame for the determination of the rendering of assistance. Editorial changes being recommended for the procedural sections of the rule are for purposes of clarification and are non-substantive.

Rule 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting, defines the eligibility requirements for a water or wastewater utility to qualify for staff assistance in alternative rate setting. The alternative rate setting process is less detailed than that conducted for a SARC and limits the maximum increase in operating revenues to 50 percent of test year operating revenues. The recommended rule revisions increase the eligibility threshold amount of total gross annual operating revenues to \$275,000 or \$550,000 on a combined basis. Procedural sections of the rule establish procedures for a utility to apply for an alternative rate setting evaluation, the conditions under which it will be conducted, and the time frame for the

determination of the rendering of assistance. Editorial changes being recommended for the procedural sections of the rule are for purposes of clarification and are non-substantive.

Rule 25-30.457, Limited Alternative Rate Increase, allows for a limited alternative procedure to a SARC. This procedure is less detailed than that conducted for a SARC and may allow for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service. The recommended rule revisions increase the eligibility threshold amount of total gross annual operating revenues to \$275,000 or \$550,000 on a combined basis. Procedural sections of the rule establish procedures for a utility to apply for a limited alternative rate increase, the conditions under which the evaluation will be conducted, and the time frame for the determination of the rendering of assistance. Changes to the procedural sections of the rule are being recommended to afford prospective applicants greater flexibility in the opportunity to participate in this alternative rate setting option that is less costly than a SARC.

The utilities affected by the recommended rule revisions potentially may achieve cost savings as a result of lower rate case expenses. No workshop was requested in conjunction with the recommended rule revisions. No regulatory alternatives were submitted pursuant to Paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in Paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

cc: (Draper, Daniel, Dean, Bulecza-Banks, Maurey, Cibula, SERC file)

FLORIDA PUBLIC SERVICE COMMISSION  
STATEMENT OF ESTIMATED REGULATORY COSTS  
Sections 25-30.455, 456, 457, F.A.C.

1. Will the proposed rule have an adverse impact on small business?  
[120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes

No

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes

No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?  
[120.541(2)(a)1, F.S.]

Economic growth Yes  No

Private-sector job creation or employment Yes  No

Private-sector investment Yes  No

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?  
[120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets) Yes  No

Productivity Yes  No

Innovation Yes  No

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes

No

Economic Analysis: The affected entities should benefit from the recommended rule changes. A summary of the recommended rule revisions is included in the attached memorandum to Counsel.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

116; three of which will be able to take advantage of the revised revenue thresholds.

(2) A general description of the types of individuals likely to be affected by the rule.

The affected entities are investor-owned water and wastewater utilities.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

None. To be done with the current workload and existing staff.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

None. The rule will only affect the Commission.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- None
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

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. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule.  
[120.541(2)(d), F.S.]

- None. The rule will only affect the Commission
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

If the recommended rule revisions are adopted, the affected utilities potentially may achieve cost savings as a result of lower rate case expenses.

E. An analysis of the impact on small businesses, and small counties and small cities:  
[120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as 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 to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- No impact on small cities or small counties
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful.  
[120.541(2)(f), F.S.]

- None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

- No regulatory alternatives were submitted.
- A regulatory alternative was received from
  - Adopted in its entirety.
  - Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.