

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:** October 23, 2014  
**TO:** Carlotta Stauffer, Commission Clerk  
**FROM:** Rosanne Gervasi, Senior Attorney, Office of the General Counsel *RG*  
**RE:** Docket No. 140205-WS – Proposed adoption of Rule 25-30.091, F.A.C., Petition to Revoke Water Certificate of Authorization, and proposed amendment of Rule 25-30.440, F.A.C., Additional Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase

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Please file the attached e-mail dated October 22, 2014, requesting any further comments to be filed by October 31, 2014, and the attachments thereto, in the above-referenced docket file. Thank you.

Attachment

RECEIVED-FPSC  
14 OCT 23 PM 1:40  
COMMISSION  
CLERK

## Rosanne Gervasi

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**From:** Rosanne Gervasi  
**Sent:** Wednesday, October 22, 2014 2:31 PM  
**To:** Martin S. Friedman (mfriedman@ffllegal.com); Troy Rendell (trendell@uswatercorp.net); 'pcflynny@uiwater.com'; 'jphoy@uiwater.com'; jdwilliams@uiwater.com; 'sayler.erik@leg.state.fl.us'; Vandiver, Denise (VANDIVER.DENISE@leg.state.fl.us); 'mike.chase@frwa.net'; 'chansen@ballardfl.com'  
**Cc:** Mark Futrell; David Dowds; Kevin Bloom; Laura King; Stan Rieger; Don Rome; Adam Hill  
**Subject:** rule proposal to adopt Rule 25-30.091 and to amend Rule 25-30.440 (PSC Docket No. 140205-WS)  
**Attachments:** 25-30.091 Petition to Revoke.doc; 25-30.440 Additional Engineering Info Class A and B.doc; SB272 customer instructions.doc; SB272 sample petition form.doc

All,

Attached are updated drafts of Rules 25-30.091 and 25-30.440, the customer instructions, and the petition for revocation form. You will see that we have incorporated several of your comments into these updated drafts.

In its post-workshop comments, the OPC suggested that we conduct a second workshop or informal meeting on the draft rules. However, time does not allow for the scheduling of another workshop or meeting because we are endeavoring to meet the statutory deadline imposed upon the executive agencies to propose the rules within 180 days from the effective date of the new legislation. In order to meet that deadline, our Division of Economics has begun working on its Statement of Estimated Regulatory Costs (SERC) so that we may file a rule proposal recommendation for the December 16, 2014 agenda. The attached is the language that is being used to formulate the SERC.

By this e-mail we are providing interested persons an opportunity to file written comments on the attached updated drafts. If you choose to do so, please file your additional comments by Friday, October 31, so that we will have time to include them in the staff analysis. Any additional comments should be filed in Docket No. 140205-WS, which has been established to process this rulemaking.

Best regards,

Rosanne Gervasi, Senior Attorney  
Florida Public Service Commission  
Office of the General Counsel  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0863  
tel: (850) 413-6224  
fax: (850) 413-6225

Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.





1 **25-30.091 Petition to Revoke Water Certificate of Authorization.**

2 (1) Purpose. The purpose of this rule is to establish a process by which customers of investor-  
3 owned drinking water utilities may petition the Commission to revoke a utility's certificate of  
4 authorization pursuant to Section 367.072, F.S.

5 (2) Pursuant to Section 367.0812(3), F.S., customers may not petition the Commission to  
6 revoke a utility's water certificate of authorization if the utility is the subject of a proceeding  
7 under Chapter 367, F.S. A general rate proceeding under Chapter 367, F.S., is initiated upon  
8 the utility's filing of a test year approval letter pursuant to Rule 25-30.430, F.A.C. Other rate  
9 proceedings under Chapter 367, F.S., are initiated upon the utility's filing of an application for  
10 rate relief.

11 (3) Letter of Intent. Utility customers who intend to petition the Commission for revocation of  
12 their utility's certificate of authorization pursuant to Section 367.072, F.S., shall notify the  
13 Commission in writing of their intent to file a petition for revocation of certificate. In the  
14 letter of intent, the customers shall advise the Commission of the name and address of their  
15 water utility. The letter of intent shall be filed with the Office of Commission Clerk.

16 (4) Within 10 days after receipt of the letter of intent, the Commission staff will notify the  
17 utility of the customers' intent to file a petition for revocation of its certificate of  
18 authorization.

19 (5) In the notification letter to the utility, the Commission staff will request that the utility  
20 certify, within 30 days after receipt of the notification letter, the number of water customers  
21 the utility serves by counting its service connections, and provide staff with a list of its  
22 customers' names and addresses.

23 (6) If the utility fails to certify the number of customers it serves by the date requested in the  
24 notification letter, Commission staff will utilize the number of customers reported by the  
25 utility in its most recent annual report on file with the Commission to evaluate the sufficiency

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1 of the petition pursuant to Section 367.072(1)(b), F.S.

2 (7) Upon receipt of the utility’s response to the Commission staff’s request to certify the  
3 number of customers the utility serves, or, if the utility fails to respond to the Commission  
4 staff’s request to certify the number of customers the utility serves, upon the expiration of 30  
5 days from the utility’s receipt of the Commission staff’s request, the Commission staff will  
6 send the following materials to customers who file a letter of intent pursuant to subsection (3)  
7 of this rule:

8 (a) “Instructions for Petitioning for Revocation of Water Certificate,” (EFF. XX/XX), which  
9 are incorporated herein by reference and are available at [hyperlink];

10 (b) Form PSC \_\_\_\_\_ (XX/XX), entitled “Florida Public Service Commission: Petition to  
11 Revoke the Certificate of Authorization of [Utility Name],” which petition form the customers  
12 must copy and use for the collection of signatures to be submitted to the Commission. A  
13 sample of Form PSC \_\_\_\_\_ (XX/XX) is incorporated herein by reference for informational  
14 purposes only, and is available at [hyperlink]. The sample petition form incorporated herein  
15 must not be used for the collection of signatures;

16 (c) a copy of Section 367.072, F.S.;

17 (d) a copy of this rule; and

18 (e) a copy of the state primary and secondary drinking water standards, as contained in Rule  
19 62-550.828, F.A.C.

20 (8) For a petition for revocation to be deemed sufficient, the following criteria must be met:

21 (a) each petition form must include the printed name, signature, service address, and  
22 telephone number of the customer-signatory;

23 (b) each petition form must state with specificity each issue that the customer-signatory has  
24 with the quality of water service provided, each time the issue was reported to the utility, and  
25 how long the issue has existed; and

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1 (c) petition forms must be completed by at least 65 percent of the utility's customers, as that  
2 term is defined in Section 367.072, F.S.  
3 (9) The customers must file the completed petition forms with the Office of Commission  
4 Clerk within 90 days after receipt of the staff's instructions, and must provide a copy of the  
5 petition forms to the utility.  
6 (10) Within 10 days after receipt of the petition, the staff will provide notice to the customers  
7 who filed the letter of intent or their designated representative by letter whether the petition is  
8 sufficient for the Commission to act. If the petition is deficient, the notice will specify what  
9 additional information is required.  
10 (11) If the notice identifies deficiencies in the petition, the customers must file a corrected  
11 petition with the Office of Commission Clerk curing the noticed deficiencies within 30 days  
12 after receipt of the notice, and must provide a copy of the cured petition to the utility.  
13 (12) The staff will file a recommendation for the Commission to determine at a scheduled  
14 agenda conference whether the issues identified in a sufficiently filed petition support a  
15 reasonable likelihood that the utility is failing to provide quality water services.  
16 (13) If the Commission determines that the issues identified in the petition support a  
17 reasonable likelihood that the utility is failing to provide quality water services, the  
18 Commission will order the utility to show cause as to why its water certificate of authorization  
19 should not be revoked, and will set the matter for hearing pursuant to Sections 120.569,  
20 120.57, 120.60(5), and 367.072(5), F.S. The utility's response to the show cause order shall  
21 use the criteria set forth in Section 367.072(3)(a) and (b), F.S., in addressing the issues  
22 identified within the petition.  
23 Rulemaking Authority 350.127(2), 367.072, 367.0812 FS. Law Implemented 367.072,  
24 367.0812 FS. History – New \_\_\_\_\_.  
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1 **25-30.440 Additional Engineering Information Required of Class A and B Water and**  
2 **Wastewater Utilities in an Application for Rate Increase.**

3 Each applicant for a rate increase shall provide two copies of the following engineering  
4 information to the Commission, with the exception of item (1), of which only one copy is  
5 required.

6 (1) A detailed map showing:

7 (a) The location and size of the applicant's distribution and collection lines as well as its plant  
8 sites, and

9 (b) The location and respective classification of the applicant's customers.

10 (2) A list of chemicals used for water and wastewater treatment, by type, showing the dollar  
11 amount and quantity purchased, the unit prices paid and the dosage rates utilized.

12 (3) The most recent chemical analyses for each water system conducted by a certified  
13 laboratory covering the inorganic, organic turbidity, microbiological, radionuclide, secondary  
14 and unregulated contaminants specified in Chapter ~~62-550~~ 47-550, F.A.C.

15 (4) All water and wastewater plant operating reports for the test year and the year preceding  
16 the test year.

17 (5) The most recent sanitary survey for each water plant and inspection report for each  
18 wastewater plant conducted by the health department or the Department of Environmental  
19 Protection (DEP).

20 (6) All health department and DEP construction and operating permits.

21 (7) Any Notices of Violation, Consent Orders, Letters of Notice, or Warning Notices from the  
22 health department or the DEP ~~in since the utility's last rate case or the previous five years,~~  
23 ~~whichever is less.~~

24 (8) A list of all field employees, their duties, responsibilities, and certificates held, and an  
25 explanation of each employees' salary allocation method to the utility's capital or expense

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1 | accounts.

2 | (9) A list, by serial number and description, of all vehicles owned or leased by the utility

3 | showing the original cost or annual lease expense, who the vehicle is assigned to, and the

4 | method of allocation to the utility.

5 | (10) Provide a list, by customer, of all complaints received during the test year, with an

6 | explanation of how each complaint was resolved.

7 | (11) Provide a copy of all customer complaints that the utility has received regarding DEP

8 | secondary water quality standards during the past five years.

9 | *Specific Authority 367.121 FS. Law Implemented 367.0812 FS. History--New 11-10-86,*

10 | *Amended 6-25-90, \_\_\_\_\_.*

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### Instructions for Petitioning for Revocation of Water Certificate

This is to acknowledge receipt of your notice of intent filed [Month/Date/Year] with the Florida Public Service Commission regarding Section 367.072, Florida Statutes. Enclosed you will find a copy of the statute, Rule 25-30.091, Florida Administrative Code (F.A.C.), the Department of Environmental Protection's primary and secondary drinking water standards (Rule 62-550.828, F.A.C.), and the petition form that must be copied and used for the submission of signatures.

**Please read the statute carefully and note the deadlines and requirements established by the Legislature for the petition process. The Commission does not have authority to waive or amend these deadlines, or alter the requirements. Please be advised that an individual signing a petition may be asked to testify under oath before the Commission and be subject to cross-examination by the utility and parties.**

**Petitioners have 90 calendar days from the date these instructions are received to obtain the signatures of at least 65 percent of the customer accounts of the utility.** The enclosed statute provides guidance on how to count customers serviced by a master meter.

[Insert either sentence 1 or 2] 1. The Commission staff has contacted the utility and the utility has certified that as of [Month/Date/Year] there are [Insert Number] customers of record [or] 2. The utility has not certified the number of customers of record; however, the utility's most recent annual report filed with the Commission indicates that as of [Month/Date/Year] the number of customers was [Insert Number].

(This report is available at: <http://www.floridapsc.com/utilities/annualreports/>)

Once the petitions are submitted, Commission staff will review each petition form for sufficiency. For petitions to be sufficient, the petition forms must state with specificity each issue each customer has relating to water quality service, each time the customer reported the issue to the utility, and how long each issue has existed. The staff review for sufficiency will take no more than 10 calendar days to complete. If staff identifies deficiencies, you will be notified and will have 30 calendar days to cure the deficiencies. If you fail to meet the 30 calendar day deadline or elect not to refile, the Commission must dismiss the petition at a publicly noticed meeting and the customers will be barred from filing a petition for one year.

Original petition forms must be filed with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0870 by the deadline set by statute. Petition forms and other documents may be filed electronically. Instructions for electronic filing are available on the Commission's website: <http://floridapsc.com/dockets/e-filings/instructions2.aspx>

If you obtain the required signatures and the petition is deemed sufficient, the Commission will determine if a reasonable likelihood exists that the utility is failing to provide quality water services. The Commission's subsequent action on the petition will be subject to the requirements of Sections 120.569, 120.57, 120.60(5), and 367.072(5), Florida Statutes.

Customers with technical questions may contact the Division of Engineering at (850) 413-6910. Customers with legal questions may contact the Office of General Counsel at (850) 413-6199.

**Florida Public Service Commission: Petition to Revoke the Certificate of Authorization of [Utility Name]  
Docket No:[Docket Number]**

The undersigned requests the Florida Public Service Commission revoke the certificate of authorization of the utility that is the subject of the docket referenced above.

State with specificity each issue you have with the quality of your water service.	Indicate each time you reported the issue to the utility, including the date(s) of contact.	Indicate how long each issue has existed.
		<input type="checkbox"/> 0-6 months <input type="checkbox"/> 6 months-1 year <input type="checkbox"/> 1 year or more
		<input type="checkbox"/> 0-6 months <input type="checkbox"/> 6 months-1 year <input type="checkbox"/> 1 year or more
		<input type="checkbox"/> 0-6 months <input type="checkbox"/> 6 months-1 year <input type="checkbox"/> 1 year or more

\_\_\_\_\_  
Printed Name of Customer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Customer's Service Address (Street, City, Zip Code)

\_\_\_\_\_  
Contact Number

\_\_\_\_\_  
Alternate Contact Number  
(If Applicable)

\_\_\_\_\_  
Date

Customers may add additional pages as needed and attach supporting documentation for the issues identified. Only one customer for each service address may sign the petition. Customers signing petitions may be asked to testify under oath before the Commission and be subject to cross-examination.