

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-

DATE: November 4, 2014
TO: Carlotta Stauffer, Commission Clerk
FROM: Rosanne Gervasi, Senior Attorney, Office of the General Counsel *RS*
RE: Comments concerning initiation of rulemaking to adopt Rule 25-30.091, Florida Administrative Code, Petition to Revoke Water Certificate of Authorization, and to amend Rule 25-30.440, Florida Administrative Code, Additional Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase (Docket No. 140205-WS)

Please file the attached comments dated October 30, 2014, from Martin Friedman, as well as the attached comments dated October 31, 2014, from Troy Rendell, in Docket No. 140205-WS. Thank you.

Attachments

RECEIVED-FPSC
14 NOV -4 AM 8:25
COMMISSION
CLERK

Rosanne Gervasi

From: Martin S. Friedman <mfriedman@ffllegal.com>
Sent: Thursday, October 30, 2014 5:11 PM
To: Rosanne Gervasi
Cc: John Hoy ; Patrick Flynn ; John Stover; John Williams; Aimee Oravec; Jaber, Lila; Charles Rehwinkel ; Troy Rendell; Erik Saylor ; 'mike.chase@frwa.net'; 'chansen@ballardfl.com'
Subject: Docket No. 140205-WS / Proposed Rule 25-30.091, FAC
Attachments: Comments to Revised Proposed Rule 25-30.091.pdf

Rosanne,

Attached are my comments to the latest iteration of proposed Rule 25-30.091. Please do not hesitate to contact me should you have any questions.

Regards, Marty

MARTIN S. FRIEDMAN

Attorney



FRIEDMAN, FRIEDMAN & LONG, P.A.
ATTORNEYS & COUNSELORS

FRIEDMAN, FRIEDMAN & LONG, P.A.

Attorneys at Law

766 North Sun Drive, Suite 4030

Lake Mary, FL 32746

Telephone: 407.830.6331

Fax: 407.878.2178

Cell: 407-310-2077

mfriedman@ffllegal.com

www.friedmanfriedmanandlong.com

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MEMORANDUM

TO: Rosanne Gervasi (rgervasi@psc.state.fl.us)

FROM: Martin Friedman, Esquire on behalf of Utilities, Inc. subsidiaries in Florida

RE: COMMENTS ON REVISED PROPOSED RULES IMPLEMENTING §367.072, F.S.

I am pleased that Staff has incorporated many of the comments into the revisions to this proposed Rule, however, I do have a comments on a new provision included in this draft.

The proposed Rule provides at subsection (13) that once the Commission determines that the Petition supports a reasonable likelihood of quality of service problem, the next step is issuance of an Order to Show Cause why the certificate should not be revoked and to set the matter for hearing. Florida Statute Section 367.072(5) provides three options to the Commission in evaluating Petitions. However, the proposed Rule ignores the subsection (5)(b) option to require the utility to take corrective action. These are three separate options and the subsection (5)(b) option is a part of the revocation option in subsection (5)(c), or it would have been included in subsection (5)(c) instead of being a separate subsection.

It seems to me that the options must be taken sequentially. If the Petitions meet the requirement of reasonable likelihood of quality of service issues then subsection (5)(a) is addressed, and the Commission then moves on to subsection (5)(b) to determine whether the utility will take corrective action, and then the formal revocation proceeding under (5)(c) is the option of last resort (as it should be). The purpose of the new law is not to revoke Certificates but to encourage compliance with secondary water quality standards.

I envision the procedure would go something like this:

- Staff Recommendation to deny or accept Petitions.
- If Commission votes to deny then the process is done unless protested; and if the Commission votes to accept the Petition then it should direct the Staff to work with the utility to seek compliance with subsection (5)(b) of the Statute.
- Staff Recommendation as to whether the utility, staff and customers (OPC) believe subsection (5)(b) corrective action will resolve the water quality problem.
- Commission votes whether corrective will resolve the problem, and if not then issue Order to Show Cause.

Rosanne Gervasi

From: Troy Rendell <trendell@uswatercorp.net>
Sent: Friday, October 31, 2014 9:01 AM
To: Martin S. Friedman; Rosanne Gervasi
Cc: John Hoy; Patrick Flynn; John Stover; John Williams; Aimee Oravec; Jaber, Lila; Charles Rehwinkel; Erik Sayler; mike.chase@frwa.net; chansen@ballardfl.com
Subject: RE: Docket No. 140205-WS / Proposed Rule 25-30.091, FAC

Rosanne,

I support Mr. Friedman's comments and echo his concern. As indicated in my previous written comments, the majority of the remaining regulated Water and Wastewater utilities are small Class C and Class B utilities. Going straight to a formal "show cause" proceeding under Section 120, Florida Statutes would place a substantial financial burden on the utilities. I believe that any costs, such as legal costs to defend such show cause proceedings would be better spent on solutions to address the customers' concerns. If additional capital improvements are required, such as additional treatment, flushing apparatus, etc., these costs to the utility to process any show cause proceeding would be lost sunk costs that could have been better utilized on any such improvements.

In addition, I believe that these costs to defend any show cause proceeding should be considered reasonable, prudent expenses to be recovered in any future rate proceeding in the event that the Commission ultimately determines that utility successfully prevailed in demonstrating that it has addressed the concerns of its customers and is providing satisfactory quality of service.

Please accept this e-mail as the written comments of the following Utilities:

Harbor Waterworks, Inc.
Lakeside Waterworks, Inc.
LP Waterworks, Inc.
HC Waterworks, Inc.
Brevard Waterworks, Inc.
Sunny Hills Utility Company
Lake Osborne Waterworks, Inc.
Jumper Creek Utility Company
The Woods Utility Company
Country Walk Utilities, Inc.
Raintree Waterworks, Inc.
Brendenwood Waterworks, Inc.
Lake Idlewild Utility Company

Troy Rendell
Manager of Regulated Utilities

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MARTIN S. FRIEDMAN

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Attorneys at Law

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