

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: January 21, 2015
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Rosanne Gervasi, Office of the General Counsel *RG*
RE: Docket No. 140205-WS

Please file the attached rule certification packet for Rules 25-30.091 and 25-30.440, F.A.C., in the docket file listed above.

Thank you.

Attachment

RECEIVED-FPSC
15 JAN 21 PM 1:30
COMMISSION
CLERK

COMMISSIONERS:
ART GRAHAM, CHAIRMAN
LISA POLAK EDGAR
RONALD A. BRISÉ
JULIE I. BROWN
JIMMY PATRONIS

STATE OF FLORIDA



GENERAL COUNSEL
CHARLIE BECK
(850) 413-6199

Public Service Commission

January 21, 2015

Ms. Liz Cloud
Florida Department of State
Administrative Code and Register Section
Room 701, the Capitol
Tallahassee, FL 32399-0250

VIA HAND DELIVERY

2015 JAN 21 07:11:16
FILED
TALLAHASSEE, FLORIDA

Re: Rule Certification Packet for Rules 25-30.091 and 25-30.440

Dear Ms. Cloud:

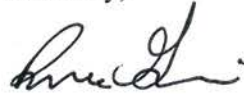
Enclosed for filing is a complete rule certification packet for Rules 25-30.091 and 25-30.440, consisting of:

- (1) One compact disc containing the coded text of the rules;
- (2) One original and two copies of the e-mail approval confirmation with the certification form required by Rule 1-1.013, F.A.C., for the materials incorporated by reference that were filed electronically;
- (3) One original and two copies of the signed rule certification form;
- (4) One original and two copies of the coded text of the rules, including the legal citations and history notes;
- (5) One original and two copies of the summary of the rules;
- (6) One original and two copies of the detailed written statement of the facts and circumstances justifying the rules; and
- (7) One original and two copies of the summary of the hearings held on the rules.

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Please let me know if you have any questions. The contact name and information for these rules are Rosanne Gervasi, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6224, rgervasi@psc.state.fl.us.

Sincerely,

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

Rosanne Gervasi
Senior Attorney

Enclosures

Julie Phillips

From: FL-Rules@dos.state.fl.us
Sent: Thursday, January 15, 2015 8:05 AM
To: Julie Phillips
Cc: flrules@dos.state.fl.us
Subject: 25-30.091 Reference Material for Rule Adoption Approved

Dear JPhillips:

The reference material for rule adoption you submitted has been approved by the Administrative Code and Register Staff.

The approved material is available in the [Review/Modify Agency Reference Material](#) list (Agency Main Menu page).

Rule Number: 25-30.091

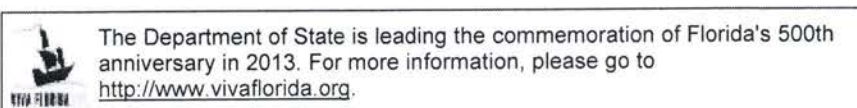
Reference Number: Ref-04971; Reference Name: "Instructions for Petitioning for Revocation of Water Certificate," (EFF. 12/14)

Reference Number: Ref-04972; Reference Name: Sample of Form PSC 1000 (12/14), "Florida Public Service Commission: Petition to Revoke the Certificate of Authorization of [Utility Name]"

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CERTIFICATION OF MATERIALS INCORPORATED

BY REFERENCE IN RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify pursuant to Rule 1-1.013, Florida Administrative Code:

(1) That materials incorporated by reference in Rule 25-30.091 have been electronically filed with the Department of State.

(2) That because there would be a violation of federal copyright laws if the submitting agency filed the incorporated materials described below electronically, a true and complete paper copy of the incorporated materials are attached to this certification for filing. Paper copies of the incorporated materials below may be obtained at the agency by [include address(es)/location(s)].

List form number(s) and form title(s), or title of document(s) below:

“Instructions for Petitioning for Revocation of Water Certificate,” (EFF. 12/14)

Sample of Form PSC 1000 (12/14), “Florida Public Service Commission: Petition to Revoke the Certificate of Authorization of [Utility Name].”

Under the provisions of Section 120.54(3)(e)6., F. S., the attached materials take effect 20 days from the date filed with the Department of State, or a later date as specified in the rule.



Carlotta S. Stauffer

Commission Clerk

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Nos.

25-30.091

25-30.440

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)

Carlotta S Stauffer
CARLOTTA S. STAUFFER

Commission Clerk _____
Title _____
4
Number of Pages Certified _____

25-30.091 Petition to Revoke Water Certificate of Authorization.

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

(2) Pursuant to Section 367.0812(3), F.S., customers may not petition the Commission to revoke a utility's water certificate of authorization if the utility is the subject of a proceeding under Chapter 367, F.S. For the purposes of this rule, a proceeding under Chapter 367, F.S., means any rate proceeding in which quality of water service is addressed, such as a general rate proceeding under Section 367.081, F.S., a staff assisted rate proceeding under Section 367.0814, F.S., or a limited proceeding under Section 367.0822, F.S. A general rate proceeding under Chapter 367, F.S., is initiated upon the utility's filing of a request for approval of a test year pursuant to Rule 25-30.430, F.A.C. Other rate proceedings under Chapter 367, F.S., are initiated upon the utility's filing of an application for rate relief.

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

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

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

(6) If the utility fails to certify the number of customers it serves by the date requested in the notification letter, Commission staff will utilize the number of customers reported by the utility in its most recent annual report on file with the Commission to evaluate the sufficiency of the petition pursuant to Section 367.072(1)(b), F.S.

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

of this rule:

(a) "Instructions for Petitioning for Revocation of Water Certificate," (EFF. 12/14), which are incorporated herein by reference and are available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-04971>;

(b) Form PSC 1000 (12/14), entitled "Florida Public Service Commission: Petition to Revoke the Certificate of Authorization of [Utility Name]," which petition form the customers must copy and use for the collection of signatures to be submitted to the Commission. A sample of Form PSC 1000 (12/14) is incorporated herein by reference for informational purposes only, and is available at

<http://www.flrules.org/Gateway/reference.asp?No=Ref-04972>. The sample petition form incorporated herein must not be used for the collection of signatures;

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

(d) a copy of this rule; and

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

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

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

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

(c) petition forms must be completed by at least 65 percent of the utility's customers, as that term is defined in Section 367.072, F.S.

(9) The customers must file the completed petition forms with the Office of Commission Clerk within 90 days after receipt of the staff's instructions.

(10) Within 10 days after receipt of the petition, the staff will provide notice to the customers who filed the letter of intent or their designated representative by letter as to whether the petition is sufficient for the Commission to act, and will provide a copy of the notice to the utility. If the petition is deficient, the notice will specify what additional information is required.

(11) If the notice identifies deficiencies in the petition, the customers must file a corrected petition with the Office of Commission Clerk curing the noticed deficiencies within 30 days after receipt of the notice, and must provide a copy of the cured petition to the utility. The staff will notify the customers who file a corrected petition or their designated

representative by letter as to whether the corrected petition has cured the deficiencies specified in the notice provided under paragraph (10), and will provide a copy of the letter to the utility. If the customers fail to timely cure the noticed deficiencies, the petition will be dismissed pursuant to Section 367.072(1)(b), F.S.

(12) The utility may file a response to a sufficiently filed petition with the Office of Commission Clerk within 14 days from the staff letter notifying the customers that the petition is sufficient for the Commission to act.

(13) The staff will file a recommendation for the Commission to determine at a scheduled agenda conference whether the issues identified in a sufficiently filed petition support a reasonable likelihood that the utility is failing to provide quality water services.

(14) If the Commission determines that the issues identified in the petition do not support a reasonable likelihood that the utility is failing to provide quality water services, the Commission's order dismissing the petition will be issued as a proposed agency action. The notice of proposed agency action will give substantially affected persons an opportunity to request a Section 120.569 or 120.57, F.S., hearing on the matter within 21 days after issuance of the notice, pursuant to Rule 25-22.029, F.A.C.

(15) If the Commission determines that the issues identified in the petition support a reasonable likelihood that the utility is failing to provide quality water services, the Commission will order the utility to show cause as to why its water certificate of authorization should not be revoked, and will set the matter for hearing pursuant to Sections 120.569, 120.57, 120.60(5), and 367.072(5), F.S. The utility's response to the show cause order shall use the criteria set forth in Section 367.072(3)(a) and (b), F.S., in addressing the issues identified within the petition.

Rulemaking Authority 350.127(2), 367.072, 367.0812 FS. Law Implemented 367.072, 367.0812 FS. History – New

25-30.440 Additional Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase.

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

- (1) A detailed map showing:
 - (a) The location and size of the applicant's distribution and collection lines as well as its plant sites, and
 - (b) The location and respective classification of the applicant's customers.
- (2) A list of chemicals used for water and wastewater treatment, by type, showing the dollar amount and quantity purchased, the unit prices paid and the dosage rates utilized.
- (3) The most recent chemical analyses for each water system conducted by a certified laboratory covering the inorganic, organic turbidity, microbiological, radionuclide, secondary and unregulated contaminants specified in Chapter 62-550 ~~47-550~~, F.A.C.
- (4) All water and wastewater plant operating reports for the test year and the year preceding the test year.
- (5) The most recent sanitary survey for each water plant and inspection report for each wastewater plant conducted by the health department or the Department of Environmental Protection (DEP).
- (6) All health department and DEP construction and operating permits.
- (7) Any Notices of Violation, Consent Orders, Letters of Notice, or Warning Notices from the health department or the DEP in ~~since the utility's last rate case or the previous five years, whichever is less.~~
- (8) A list of all field employees, their duties, responsibilities, and certificates held, and an explanation of each employees' salary allocation method to the utility's capital or expense accounts.
- (9) A list, by serial number and description, of all vehicles owned or leased by the utility showing the original cost or annual lease expense, who the vehicle is assigned to, and the method of allocation to the utility.
- (10) Provide a list, by customer, of all complaints received during the test year, with an explanation of how each complaint was resolved.
- (11) Provide a copy of all customer complaints that the utility has received regarding DEP secondary water quality standards during the past five years.

Rulemaking Authority 350.127(2), 367.0812(5), 367.121 FS. Law Implemented 367.081, 367.0812 FS. History—New 11-10-86, Amended 6-25-90, _____.

SUMMARY OF THE RULES

Rule 25-30.091 adopts the format of and requirements for a petition for revocation of a water utility's certificate of authorization to provide water service and the process by which the Commission will consider such petitions. Moreover, Rule 25-30.440 is amended to require water utilities to provide a copy of all customer complaints the utility has received regarding secondary standards established by the Department of Environmental Protection during the past 5 years when applying for a rate increase.

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULES

Newly enacted Section 367.072, F.S., authorizes the Commission to revoke a water utility's certificate of authorization to provide water service if, after at least 65 percent of the utility's customers file a petition for revocation, the Commission finds that due to quality of water service issues, revocation is in the best interest of the customers in accordance with that section. Section 367.072, F.S., requires the Commission to adopt rules to implement the new law.

Moreover, newly enacted Section 367.0812, F.S., requires the Commission to consider, when setting rates, the extent to which a water utility provides service that meets secondary water quality standards as established by the Department of Environmental Protection. Section 367.0812, F.S., requires the Commission to adopt rules to implement the new law.

SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.