

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendment of Rule 25-30.433,
F.A.C., Rate Case Proceedings.

DOCKET NO. 20180029-WS
ORDER NO. PSC-2018-0119-NOR-WS
ISSUED: March 5, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
JULIE I. BROWN
DONALD J. POLMANN
GARY F. CLARK
ANDREW GILES FAY

NOTICE OF RULEMAKING

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has proposed the amendment of Rule 25-30.433, Rate Case Proceedings, Florida Administrative Code, relating to water and wastewater utility rate case requirements, Commission evaluation of quality of service, and Commission consideration of whether infrastructure and operational conditions of the plant and facilities are in compliance with Rule 25-30.225, F.A.C..

The attached Notice of Proposed Rule appeared in the March 5, 2018, edition of the Florida Administrative Register.

If timely requested, a hearing will be held at a time and place to be announced in a future notice.

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By ORDER of the Florida Public Service Commission this 5th day of March, 2018.


CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
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Tallahassee, Florida 32399
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

KGWC

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-30.433 Rate Case Proceedings

PURPOSE AND EFFECT: The rule is amended so that the Commission in water and wastewater rate cases evaluates quality of service separately from the infrastructure and operational conditions of utility plant and facilities; codifies existing agency practice, and updates the rule for consistency with current statutes and Commission rules.

Docket No. 20180029-WS

SUMMARY: Under the amended rule, the Commission in rate cases evaluates quality of service separately from its evaluation of the infrastructure and operational conditions of the utility plant and facilities. The amended rule codifies the information the Commission considers when evaluating the utility's quality of service and the infrastructure and operational conditions of the utility's plant and facilities; deletes language that conflicts with statutory requirements; and modifies language for consistency with language of other related Commission rules.

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), FS, and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business and that there would likely be minimal transactional costs to the individual and entities, including government entities, required to comply with the rule.

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), 367.0812(5), 367.0814, 367.121, 367.1213, FS.

LAW IMPLEMENTED: 367.081, 367.0812(1), 367.0814, 367.0822, 367.1213, 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: Kathryn G.W. Cowdery, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6216, kcowdery@psc.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.433 Rate Case Proceedings.

In a rate case proceeding, the following provisions shall apply, ~~unless the applicant or any intervenor demonstrates that these rules result in an unreasonable burden. In these instances, fully supported alternatives will be considered by the Commission. Any alternatives proposed by the utility must be filed with the minimum filing requirements.~~

(1) The Commission in every rate case shall make a determination of the quality of service provided by the utility by evaluating the ~~. This shall be derived from an evaluation of three separate components of water and wastewater utility operations: quality of utility's product (water and wastewater); operational conditions of utility's plant and facilities;~~ and the utility's attempt to address customer satisfaction (water and wastewater). In making this determination, the Commission shall consider: Sanitary surveys, outstanding citations, violations and consent orders

~~on file with the Department of Environmental Protection (DEP) and county health departments or lack thereof over the preceding 3 year period shall also be considered. DEP and county health department officials' testimony concerning quality of service as well as the testimony of utility's customers shall be considered.~~

(a) The most recent chemical analyses for each water system as described in Rule 25-30.440(3), F.A.C.;

(b) Any Department of Environmental Protection (DEP) and county health department citations, violations and provisions of consent orders that relate to quality of service;

(c) Any DEP and county health department officials' testimony concerning quality of service;

(d) Any testimony, complaints and comments of the utility's customers and others with knowledge of the utility's quality of service; and

(e) Any utility testimony and responses to the information provided in paragraphs (1)(a) – (d) above.

(2) In order to ensure safe, efficient, and sufficient service to utility customers, the Commission shall consider whether the infrastructure and operational conditions of the plant and facilities are in compliance with Rule 25-30.225, F.A.C. In making this determination, the Commission shall consider:

(a) Any testimony of DEP and county health department officials;

(b) Inspections, including sanitary surveys for water systems and compliance evaluation inspections for wastewater systems; citations, violations and consent orders issued to the utility;

(c) Any testimony, complaints and comments of the utility's customers and others with knowledge of the infrastructure and operational conditions of the utility's plant and facilities; and

(d) Any utility testimony and responses to the information provided in paragraphs (2)(a) – (c) above.

~~(3)(2)~~ Working capital for Class A utilities shall be calculated using the balance sheet approach. Working capital for Class B and C utilities shall be calculated using the formula method (one-eighth of operation and maintenance expenses).

~~(4)(3)~~ Used and useful debit deferred taxes shall be offset against used and useful credit deferred taxes in the capital structure. Any resulting net debit deferred taxes shall be included as a separate line item in the rate base calculation. Any resulting net credit deferred taxes shall be included in the capital structure calculation. No other deferred debits shall be considered in rate base when the formula method of working capital is used.

~~(5)(4)~~ The averaging method used by the Commission to calculate rate base and cost of capital shall be a 13-month average for Class A utilities and the simple beginning and end-of-year average for Class B and C utilities.

~~(6)(5)~~ Non-used and useful adjustments shall be applied to the applicable depreciation expense. Property tax expense on non-used and useful plant shall not be allowed.

~~(7)(6)~~ Charitable contributions shall not be recovered through rates.

~~(8)(7)~~ Income tax expense shall not be allowed for subchapter S corporations, partnerships or sole proprietorships.

~~(9)(8)~~ Non-recurring expenses shall be amortized over a 5-year period unless a shorter or longer period of time can be justified.

~~(10)(9)~~ The amortization period for forced abandonment or the prudent retirement, in accordance with the National Association of Regulatory Utility Commissioners Uniform System of Accounts, of plant assets prior to the end of their depreciable life shall be calculated by taking the ratio of the net loss (original cost less accumulated depreciation and contributions-in-aid-of-construction (CIAC) plus accumulated amortization of CIAC plus any costs incurred to remove the asset less any salvage value) to the sum of the annual depreciation expense, net of amortization of CIAC, plus an amount equal to the rate of return that would have been allowed on the net invested plant that would have been included in rate base before the abandonment or retirement. This formula shall be used unless the specific circumstances surrounding the abandonment or retirement demonstrate a more appropriate amortization period.

~~(11)(10)~~ A utility is required to have the right of access and continued use of own the land upon which the utility treatment facilities are located, ~~or possess the right to the continued use of the land, such as a 99 year lease. Documentation of continued use shall be in the form of a recorded warranty deed, recorded quit claim deed accompanied by title insurance, recorded lease such as a 99-year lease, or recorded easement. The Commission may consider a written easement or other cost effective alternative.~~

~~(12)~~(11) In establishing an authorized rate of return on common equity, a utility, in lieu of presenting evidence, may use the current leverage formula adopted by Commission order. The equity return established shall be based on the equity leverage order in effect at the time the Commission decides the case.

~~(13)~~(12) Nonutility investment should be removed directly from equity when reconciling the capital structure to rate base unless the utility can show, through competent evidence, that to do otherwise would result in a more equitable determination of the cost of capital for regulatory purposes.

~~(14)~~(13) Interest expense to be included in the calculation of income tax expense shall be the amount derived by multiplying the amount of the debt components of the reconciled capital structure times the average weighted cost of the respective debt components. Interest expense shall include an amount for the parent debt adjustment in those cases covered by Rule 25-14.004, F.A.C. Interest shall also be imputed on deferred investment tax credits in those cases covered by 26 CFR Part 1, s. 1.46-6(b)(2)(i), (3) and (4)(ii) issued May 22, 1986 and effective for property constructed or acquired on or after August 15, 1971.

Rulemaking Authority 350.127(2), 367.0812(5), 367.0814, 367.121, 367.1213 FS. Law Implemented 367.081, 367.0812(1), 367.0814, 367.0822, 367.1213, ~~376.1213~~ FS. History—New 11-30-93, Amended 12-14-93,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathryn G.W. Cowdery

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 1, 2018

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 43, Number 230, November 30, 2017.