

STATE OF FLORIDA

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



OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850)413-6199

Public Service Commission

May 2, 2018

Mr. Chris Bailey
Rules Ombudsman in
The Executive Office of the Governor
Reg.Reform@eog.myflorida.com

SENT VIA E-MAIL

Re: Docket No. 20170222-WS; Rules 25-30.130, Record of Complaints and 25-30.355, Complaints, F.A.C.

Dear Mr. Bailey:

The Florida Public Service Commission proposed the above-listed rules at their regular agenda conference on April 20, 2018. The Commission has determined that these rules will affect small businesses. Accordingly, pursuant to Section 120.54(3)(b)2.b.(I), Florida Statutes, enclosed is a copy of the Florida Administrative Register (FAR) notice of the proposed rules, which was published in the May 2, 2018 edition of the FAR. Also enclosed is a copy of the statement of estimated regulatory costs (SERC). The SERC concluded that the proposed rule amendments will not have an adverse effect on small business. Pursuant to your instructions, we have filled out and included a copy of the OFARR rulemaking notification form.

If there are any questions with respect to these rules, please contact me at (850) 413-6216 or kgcowdery@psc.state.fl.us.

Sincerely,

Kathryn G.W. Cowdery
Senior Attorney

Enclosures

cc: Office of the Commission Clerk

14-02EMED-FPSC
2018 MAY -2 PM 1:35
COMMISSION
CLERK

To: Chris Bailey, Director

Submitted By: Kathryn G.W. Cowdery, Senior Attorney
Florida Public Service Commission
850-413-6216

Re: Rulemaking Notification for:

Rule Number	Rule Title
25-30.130	Record of Complaints
25-30.355	Complaints

List EACH rule singly. Add lines as needed.

Date: May 2, 2018 Date of anticipated publication:

Does this rule qualify for Rules Ombudsman review in accordance with section 120.54(3)(b), F.S.?

Yes No

Please complete this form when submitting rulemaking notification to the Office of Fiscal Accountability and Regulatory Reform (OFARR) pursuant to Executive Order 11-211. **If any information or documents are missing, the notification will be returned without review. OFARR will indicate what is missing, and the completed notification must be resubmitted.**

I. Proposed Rulemaking Activity:

Notice of Development of Rulemaking – Attach the proposed Notice. If no text is available, give a detailed explanation of the rulemaking, including why it is necessary.

Notice of Proposed Rule – Attach the proposed Notice, “Is a SERC Required” Checklist, and SERC (if required), all materials incorporated by reference, and all forms referenced or required by the rule.

Notice of Emergency Rule – Attach the proposed Notice. Explain fully why emergency rulemaking is appropriate.

Notice of Change – Attach the proposed Notice. Be sure the text is coded correctly according to Rule 1B-30.003(5)(f), F.A.C. Explain why a change is required. Attach any correspondence from JAPC or the public. If no documents exist, summarize any public comment the agency has received or public hearings/workshops the agency has held.

Notice of Withdrawal – Attach the proposed Notice. Explain why it is necessary to withdraw the rulemaking. Include any JAPC correspondence.

Other – Attach the proposed Notice. Include detailed information about the rulemaking.

Notices should be coded according to Rule 1B-30.003(5)(f), F.A.C.

Office of Fiscal Accountability and Regulatory Reform

Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

2. Is this rulemaking included in the agency's Annual Regulatory Plan (ARP)? Yes

3. For each rule:

If the rule decreases regulation, explain in detail how it alleviates unnecessary, disproportionate, or adverse effects to business. You should address all relevant considerations, including: restriction on entry into a profession; effect on availability of services to public; effect on job retention; restriction on employment seekers; imposition of burdensome costs; cost-effectiveness vs. economic impact of rule.

Rule 25-30.355 is amended to delete requirements for responding to service requests because these requirements are duplicative of more detailed requirements found in other rules.

If the rule increases regulation, explain in detail what statute or statutes are being implemented and why the rule is necessary to implement the statutory language.

Rule Number	Detailed Explanation
25-30.130	Water and wastewater utilities are required to keep a record of all complaints received, consistent with the definition of complaint in Rule 25-30.355. The current requirement that utilities keep a copy of "each signed, written complaint" is outdated because it predates use of computers as a means of correspondence. In recognition of changes to Section 367.0812, F.S., requiring the Commission in fixing rates to consider the past five years of certain customer complaints related to secondary standards, the rule is amended to require water and wastewater utilities to maintain the record of complaints for a minimum of five years. These amendments implement Section 367.111, F.S., that gives the Commission authority to assure that water and wastewater utilities are providing customers safe, efficient, and sufficient service; Section 367.121(1), F.S., that gives the Commission jurisdiction to prescribe service rules and to do all things necessary to the full and complete exercise of its jurisdiction; and Section 367.0812, F.S., as explained above.
25-30.355	The rule is amended to replace the requirement that utilities "respond fully and promptly to all customer requests" with a specific requirement that utilities acknowledge customer complaints within 3 business days of receipt and respond to customer complaints within 15 working days of receipt of the complaint. The rule requires each utility to have a procedure for receiving and responding to emergency calls 24 hours a day. These amendments implement Section 367.111, F.S., that gives the Commission authority to assure that water and wastewater utilities are providing customers safe, efficient, and sufficient service; Section 367.121(1), F.S., that gives the Commission jurisdiction to prescribe service rules and to do all things necessary to the full and complete exercise of its jurisdiction; and Section 367.0812(1), F.S., requiring the Commission in fixing rates to consider the past five years of certain customer complaints related to secondary standards.

List EACH rule singly. Add lines as needed.

4. Has the agency received any public comment about this rulemaking, since the last rulemaking notification? No

If yes, please summarize the comment and the agency's position regarding the comment (i.e. has made or intends to make changes based on the comment, disagrees with the comment, etc.) and attach any documents. NA

Office of Fiscal Accountability and Regulatory Reform
Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

5. Has the agency received any lower cost regulatory alternatives (LCRA)? No

If yes, describe in detail what action the agency took in response to the LCRA.

____NA_____

6. Has the agency received any comment from JAPC, since the last rulemaking notification? No

If yes, please summarize the comment and attach any documents.

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NOS.:RULE TITLES:

25-30.130 Record of Complaints

25-30.355 Complaints

PURPOSE AND EFFECT: To amend the rules to update and clarify water and wastewater utilities' requirements for responding to and keeping a record of customer complaints

Docket No. 20170222-WS

SUMMARY: Rule 25-30.130, F.A.C. is being amended to require water and wastewater utilities to keep a record of all complaints received, to identify the information required to be in the record, to require the record to be maintained five years, and to require a utility to provide the record to the Commission upon Commission staff's request.

Rule 25-30.355, F.A.C. is being amended to clarify the definition of complaint, to specify a time frame for a utility to acknowledge and to respond to a customer complaint, to require a utility to specify in its acknowledgement whether any additional action will be taken on the customer's complaint, and to require each utility to have a procedure for receiving and responding to emergency calls 24 hours a day.

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.

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), 367.121(1) FS.

LAW IMPLEMENTED: 367.0812(1), 367.111, 367.121(1) 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:

25-30.130 Record of Complaints.

(1) Each utility shall maintain a record of all complaints ~~each signed, written complaint~~ received by the utility ~~from any of that utility's customers.~~

(2) ~~Each~~ The record shall show ~~include~~ the name and address of the complainant; the nature of the complaint; the date received; the result of any the investigation; the disposition of the complaint; and the date of the disposition ~~of the complaint~~. The word "complaint" as used in this rule is defined in subsection 25-30.355(2), F.A.C.

(2) Notwithstanding the requirements of paragraph 25-30.110(1)(a), F.A.C., utilities shall maintain a record of each complaint for a minimum of five years from the date of receipt and shall provide a copy of records of complaints to the Commission upon Commission staff's request. Documentation relating to customer complaints processed under Rule 25-22.032, F.A.C., shall be retained as set forth in paragraph 25-22.032(10)(a), F.A.C.
Rulemaking Authority 350.127(2), 367.0812(5), 367.121(1) FS. Law Implemented 367.0812(1), 367.111, 367.121(1) FS. History—New 9-12-74, Formerly 25-10.30, 25-10.030, Amended 11-10-86, _____.

25-30.355 Complaints.

(1) A utility shall give a customer verbal or written acknowledgement of the utility's receipt of the customer's complaint no later than three business days after it receives the complaint. The utility shall specify in its acknowledgement whether any additional action will be taken on the issue(s) raised by the customer. A utility shall investigate the complaint and give the customer a verbal or written response no later than 15 days after it receives the complaint. ~~make a full and prompt acknowledgement and investigation of all customer complaints and shall respond fully and promptly to all customer requests.~~

(2) ~~For the purpose of this rule~~ The word "complaint" as used in this rule means shall mean an objection made to the utility by a the customer by telephone call, by e-mail, by letter, or on the utility's website form as to the utility's charges, facilities or service; that where the disposal of the complaint requires action by on the part of the utility.

(3) Each utility shall have a procedure for receiving and responding to emergency calls 24 hours a day. Examples of emergencies shall include reports of water or wastewater main breaks or conditions caused by utility-owned facilities where property damage or personal injury is reasonably foreseeable. Replies to inquiries by the Commission's staff shall be furnished within fifteen (15) days from the date of the inquiry and shall be in writing, if requested.

Rulemaking Authority 350.127(2), 367.0812(5), 367.121(1) FS. Law Implemented 367.0812(1), 367.111, 367.121(1) FS. History—New 9-12-74, Formerly 25-10.70, 25-10.070, Amended 11-10-86, _____.

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: April 20, 2018

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 43, Number 26, February 8, 2017.

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: March 12, 2018

TO: Kathryn Gale Winter Cowdery, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst I, Division of Economics *SKG*

RE: Statement of Estimated Regulatory Costs (SERC) for proposed Revisions to Rules 25-30.130 and 25-30.355, Florida Administrative Code (F.A.C.)

The purpose of this rulemaking initiative is to update, clarify, and streamline certain Commission rules pertaining to records of complaints and the definition of the term "complaints" related to water and wastewater utilities. Specifically, staff is proposing to amend Rule 25-30.130, F.A.C. to require water and wastewater utilities to maintain a record of all complaints as defined in Rule 25-30.355(2), F.A.C., for five years. The current requirement to maintain records of complaints is three years. Rule 25-30.130, F.A.C., is also amended to state that utilities must provide a copy of records of complaints upon request of Commission staff. Current Rule 25-30.355(1), F.A.C. requires a utility to make a full and prompt acknowledgement and investigate all customer complaints, and respond fully and promptly to all customer requests. Staff's proposed amendment to Rule 25-30.355, F.A.C., provides specific parameters to utilities how soon the utility should acknowledge, investigate and respond to customer complaints. Proposed rule revisions requires the utility to acknowledge receipt of a complaint no later than three business days after the receipt of the complaint, investigate the complaint and provide the customer a verbal or written response within 15 days of the utility's receipt of a complaint and revises the definition of complaint to mean an objection made by a customer to the utility by telephone call, e-mail, letter, or the utility's website form as to the utility's charges, facilities, or service that requires action by the utility.

The attached SERC addresses the considerations required pursuant to Section 120.541, Florida Statutes (F.S.). Workshops to solicit input on the proposed rule revisions were conducted by Commission staff on February 28, 2017, June 27, 2017, and on March 1, 2018. Comments that either were received during the workshops or were filed subsequently were incorporated into the draft rules to provide additional clarification. Staff issued three data requests to water and wastewater utilities on August 24, 2017, December 14, 2017, and on February 21, 2018. As of October 3, 2017, staff received responses from 33 water and wastewater utilities who stated that the proposed rule revisions will have minimal to no economic impact on the utilities as a result of proposed revisions. On December 23, 2017, staff received one response to the second data request stating that the annual cost to implement the proposed revised rule will cost the utility \$186,090 for five years (excludes performance based annual salary increases). On March 8, 2018, the same respondent stated that the costs indicated above will be applicable to comply with the currently proposed rule revisions. No regulatory alternatives were submitted pursuant to

Section 120.541(1) (a), F.S. None of the impact/cost criteria established in Section 120.541(2) (a), F.S. will be exceeded as a result of the proposed revisions.

Cc: Draper, Daniel, Shafer, King, SERC file

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rules 25-30.130 and 25.30.355, 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 the 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: A summary of the recommended rule revisions is included in the attached memorandum to Counsel. Specific elements of the associated economic analysis are discussed below in Sections B through F of this SERC. Staff believes that none of the impact/cost criteria established in Paragraph 120.541(2)(a), F.S., will be exceeded as a result of the proposed rule revisions.

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.

Potentially affected entities include 132 investor-owned water and wastewater utilities that serve approximately 180,000 Florida customers. Water and wastewater utilities which come under the jurisdiction of the Commission in the future also would be required to comply.

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

The 132 investor-owned water and wastewater utilities that are located in 38 counties.

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. The 33 water and wastewater utilities that responded to staff's first data request stated that the proposed rule changes will have no economic impact on how the utilities address customer complaints, how complaints are recorded and maintained and no additional costs to respond to emergency calls 24 hours per day; the utilities are currently implementing the proposed requirements. In response to staff's second data request, one utility representative stated that the utility will need to hire one full time staff person to comply with the proposed rule requirement to respond to customer complaints within 3 days or 3 business days and to investigate the complaint and give verbal or written response within 15 days. The cost estimate is indicated below:

Hourly rate = \$13.00 = \$27,040 Annual Salary

Annual payroll tax =\$ 2,080

Annual workers compensation=\$70

Annual Health Insurance =\$ 6,000 (estimated)

Annual Allowance for overtime=\$ 2,028

Annual Cost for new employee=\$ 37,218.

Annual Cost for new employee x 5 years= \$ 186,090(this figure excludes annual salary raises which is performance based)

Other. Provide an explanation for estimate and methodology used.

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. The current Rule 25-30.355(1), F.A.C. requires a utility to make a full and prompt acknowledgement and investigate all customer complaints, and respond fully and promptly to all customer requests. The proposed rule revision provide specific parameters and guidance to utilities how soon the utility should acknowledge, investigate and respond to customer complaints. While it is difficult to estimate the number of affected entities that would meet the definition of "Small Business" as defined in Section 288.703, F.S., it is reasonable to assume that many of the affected entities would meet the statutory definition. As stated in Section D above, one respondent to staff's second data request stated that they would incur an additional cost of \$37,218 for a new employee and for five years the cost would be \$186,090 (excluding performance based salary increases).

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: Workshops to solicit input on the recommended rules was conducted by Commission staff on February 28, 2017, June 27, 2017, and on March 1, 2018. Comments that either were received during the workshop or were filed subsequently were incorporated into the draft rules to provide additional clarification.

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.

Julie Phillips

From: Reform, Reg <Reg.Reform@eog.myflorida.com>
Sent: Wednesday, May 02, 2018 11:47 AM
To: Julie Phillips; Reform, Reg
Cc: Kathryn Cowdery
Subject: RE: To the Rules Ombudsman

This email serves as confirmation that the Office of Fiscal Accountability and Regulatory Reform has received your Rulemaking Notification.

Thank you in advance for your cooperation, and as always, please feel free to contact the office with any questions.

Sincerely,

Chris Bailey, Deputy Policy Coordinator
Executive Office of the Governor
Office of Policy and Budget
O: 850.717.9368
C: 850.322.4047
christopher.bailey@laspbs.state.fl.us



From: Julie Phillips <JPhillip@PSC.STATE.FL.US>
Sent: Wednesday, May 2, 2018 7:59 AM
To: Reform, Reg <Reg.Reform@eog.myflorida.com>
Cc: Kathryn Cowdery <kcowdery@PSC.STATE.FL.US>
Subject: To the Rules Ombudsman

Please see attached, and, thank you.

Julie Phillips for Kathryn Cowdery
Office of the General Counsel
Public Service Commission
850.413.6084