

STATE OF FLORIDA

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

# Public Service Commission

October 7, 2019

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

SENT VIA E-MAIL

**Re: Docket No. 20190152-WS, Rule 25-30.350, F.A.C., Underbillings and Overbillings for Water and Wastewater Service, and Rule 25-30.360, F.A.C., Refunds**

Dear Mr. Bailey:

The Florida Public Service Commission proposed the above-listed rules at their regular agenda conference on October 3, 2019. 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 October 7, 2019 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) 413-3082 or aharper@psc.state.fl.us.

Sincerely,

A handwritten signature in blue ink that reads "Adria E. Harper".

Adria E. Harper  
Senior Attorney

COMMISSION  
CLERK

2019 OCT -7 AM 10:27

RECEIVED-FPSC

Enclosures

cc: Office of the Commission Clerk

## Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NOS: RULE TITLES:

25-30.350 Underbillings and Overbillings for Water and Wastewater

25-30.360 Refunds

PURPOSE AND EFFECT: To clarify the procedure for customer refunds due to overbilling by water and wastewater companies

Docket No.20190152-WS

SUMMARY: Rule 25-30.350, F.A.C., sets forth the procedure for calculating overbillings. Rule 25-30.360, F.A.C., sets forth the procedure for disbursing the amount of refunds. Once the Commission determines that a water or wastewater utility has overbilled a customer pursuant to Rule 25-30.350, F.A.C., any refund required due to overbilling must be disbursed by the utility pursuant to Rule 25-30.360, F.A.C. The rule amendments clarify that the two rules are to function in conjunction with each other.

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 amendments will not have an adverse impact on economic growth, business competitiveness, or small business and that there would likely be transactional cost savings to the individual and entities, including government entities, required to comply with the rule.

The agency has determined that the rule amendments are 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), 367.121

LAW IMPLEMENTED: 367.081, 367.0814, 367.082(2), 367.091, 367.121

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: Adria Harper, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6042, aharper@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.350 Underbillings and Overbillings for Water and Wastewater Service.

(1) through (2) No change.

(3) In the event of an overbilling, the customer may elect to receive the refund as a one-time disbursement, if the refund is in excess of \$20, or as a credit to future billings. Refunds for overbillings shall be disbursed pursuant to Rule 25-30.360, F.A.C.

*Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.091, 367.121 FS. History—New 11-10-86, Amended 6-17-13, \_\_\_\_\_.*

25-30.360 Refunds.

(1) Applicability. ~~With the exception of deposit refunds, All refunds under this chapter ordered by the Commission shall be made in accordance with the provisions of this rule, unless another rule in this chapter specifically sets forth the procedure for making refunds otherwise ordered by the Commission. The calculation for overbillings shall be pursuant to Rule 25-30.350, F.A.C., and disbursed pursuant to this rule.~~

(2) through (8) No change.

*Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.0814, 367.082(2) FS. History—New 8-18-83, Formerly 25-10.76, 25-10.076, Amended 11-30-93, \_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Adria Harper

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 3, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 45, Number 120, June 20, 2019.

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:** July 26, 2019

**TO:** Adria E. Harper, Senior Attorney, Office of the General Counsel

**FROM:** Sevini K. Guffey, Public Utility Analyst II, Division of Economics *S.K.G.*

**RE:** **Statement of Estimated Regulatory Costs** for Proposed Rule 25-30.350, Underbillings and Overbillings for Water and Wastewater Service, Florida Administrative Code (F.A.C.), and Rule 25-30.360, Refunds, F.A.C.

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The purpose of this rulemaking initiative is to clarify the procedure for customer refunds due to overbillings by water and wastewater companies.

The attached Statement of Estimated Regulatory Costs (SERC) addresses economic impacts and considerations required pursuant to Section 120.541, Florida Statutes (F.S.). The SERC analysis indicates that the proposed rule amendments will not likely increase regulatory costs, including any transactional costs or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. The proposed rule amendments would have no impact on small business, would have no implementation cost to the Commission or other state and local government entities, and would have no impact on small cities or counties.

A noticed rule development workshop was held on July 15, 2019. Comments received have been incorporated to the revised rules. No regulatory alternatives were submitted pursuant to Section 120.541(1)(g), F.S. The SERC concludes that none of the impacts/cost criteria established in Sections 120.541(2)(a), (c), (d), and (e) F.S. will be exceeded as a result of the proposed rule revisions.

cc: SERC File

**FLORIDA PUBLIC SERVICE COMMISSION**  
**STATEMENT OF ESTIMATED REGULATORY COSTS**  
Rules 25-30.350, Underbillings and Overbillings for Water and Wastewater Service,  
F.A.C., and Rule 25-30.360, Refunds, 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:

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.

The number of entities required to comply with this rule includes 124 water utilities and 92 wastewater utilities within the State of Florida.

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

Types of individuals likely to be affected by this rule would be residential, commercial, and industrial water and wastewater utility customers of the above mentioned 124 water utilities and 92 wastewater utilities.

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.
- Other. Provide an explanation for estimate and methodology used.

Revised Rule 25-30.350, F.A.C. states that refunds for water and wastewater customers shall be disbursed pursuant to Rule 25-30.360, F.A.C. The revision adds clarification to provide a timeframe to disburse customer refunds.

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.
- 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:

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.



**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)*

To: Chris Bailey, Director

Submitted By: [Adria Harper, Senior Attorney]  
[Florida Public Service Commission]  
[(850) 413-6082]

Re: Rulemaking Notification for:

<b>Rule Number</b>	<b>Rule Title</b>
25-30.350	Underbillings and Overbillings for Water and Wastewater Service
25-30.360	Refunds

*List EACH rule singly. Add lines as needed.*

Date: [Date request sent to OFARR]                      Date of anticipated publication:

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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.**

1. 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.*

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# 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.

**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

*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.

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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.

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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.

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