

STATE OF FLORIDA

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OFFICE OF THE GENERAL COUNSEL  
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(850) 413-6199

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# Public Service Commission

April 2, 2020

Kenneth J. Plante, Coordinator  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

VIA EMAIL

**Re: Docket No. 20200044-WS; Rule 25-30.457, F.A.C., Limited Alternative Rate Increase**

Dear Mr. Plante:

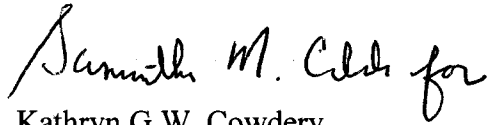
Enclosed are the following materials concerning the above referenced proposed rule:

1. A copy of the proposed rule.
2. A copy of all materials incorporated by reference in the proposed rules.
3. A copy of the F.A.R. notice.
4. A statement of facts and circumstances justifying the proposed rule.
5. A federal standards statement.
6. Statement of Estimated Regulatory Costs for the rule.

Mr. Kenneth J. Plante  
April 2, 2020  
Page 2

If there are any questions with respect to these rules, please do not hesitate to call me at 413-6216.

Sincerely,

A handwritten signature in black ink that reads "Kathryn M. Cowdery for". The signature is written in a cursive, flowing style.

Kathryn G.W. Cowdery  
Senior Attorney

Enclosures

cc: Office of Commission Clerk

1       **25-30.457 Limited Alternative Rate Increase.**

2       (1) As an alternative to a staff assisted rate case as described in ~~R~~rule 25-30.455, F.A.C.,  
3       or to staff assistance in alternative rate setting as described in ~~R~~rule 25-30.456, F.A.C., water  
4       utilities whose total gross annual operating revenues are \$300,000 or less for water service and  
5       wastewater utilities whose total gross annual operating revenues are \$300,000 or less for  
6       wastewater service may file with the Office of Commission Clerk an application ~~petition the~~  
7       ~~Commission~~ for a limited alternative rate increase of up to 20 percent applied to metered or  
8       flat recurring rates of all classes of service by ~~filing with the Office of Commission Clerk the~~  
9       ~~information required by subsections (7), (8) and (9) of this rule.~~

10       (2) The application for limited alternative rate increase must contain the following  
11       information:

12       (a) The name of the utility as it appears on the utility's certificate and the address of the  
13       utility's principal place of business;

14       (b) The type of business organization under which the utility's operations are conducted;

15       (c) If the utility is a corporation, the date of incorporation and the names and addresses of  
16       all persons who own five percent or more of the utility's stock;

17       (d) If the utility is not a corporation, the names and addresses of the owners of the  
18       business;

19       (e) A schedule showing the annualized revenues by customer class and meter size for the  
20       most recent 12-month period using the rates in effect at the time the utility files its application;

21       (f) A schedule showing the current and proposed rates for all classes of customers;

22       (g) A statement providing the specific basis or bases for the requested rate increase;

23       (h) If the requested rate increase is based upon the utility's underearning or the utility's  
24       expectation to underearn, a statement explaining why the utility is, or is expected to, underearn  
25       its authorized rate of return;

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1 (i) A statement that the figures and calculations upon which the change in rates is based  
2 are accurate and that the change will not cause the utility to exceed its last authorized rate of  
3 return on equity;

4 (j) A statement that the utility is currently in compliance with its annual report filing in  
5 accordance with Rule 25-30.110(3), F.A.C.;

6 (k) A statement that the utility has paid all required regulatory assessment fees or is current  
7 on any approved regulatory assessment fee payment plan;

8 (l) A statement that an order in a rate proceeding that established the utility's rate base,  
9 capital structure, annual operating expenses and revenues has been issued for the utility within  
10 the 7-year period prior to the official date of filing of the application; and

11 (m) Any additional relevant information in support of the application and reasons why the  
12 information should be considered.

13 (3) Within 30 days of the application's filing date, Commission staff will notify the utility  
14 in writing that the application requirements of subsection (2) of this rule have been met or that  
15 the requirements of subsection (2) have not been met with an explanation of the application's  
16 deficiencies.

17 ~~(2) Within 30 days of receipt of the completed petition, the Commission will evaluate the~~  
18 ~~petition and determine the petitioner's eligibility for a limited alternative rate increase.~~

19 ~~(3) The Commission will notify the petitioner in writing as to whether the petition is~~  
20 ~~accepted or denied. If the petition is accepted, staff assistance in alternative rate setting will be~~  
21 ~~initiated. If the petition is denied, the notification of petition denial will state the deficiencies~~  
22 ~~in the petition with reference to the criteria set out in subsection (5) of this rule.~~

23 (4) The date of Commission staff's written notification to the utility that the requirements  
24 of subsection (2) of this rule have been met will be considered the date of official acceptance  
25 by the Commission of the application. The official date of filing is established as will be 30

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1 days after the official acceptance by the Commission of the application date of the written  
2 notification to the petitioner of the Commission's acceptance of the petition. The application is  
3 deemed denied if the utility does not remit the filing fee as required by paragraph 25-  
4 30.020(2)(f), F.A.C., within 30 days after the official acceptance of the application.

5 ~~(5) In determining whether to grant or deny the petition, the Commission will consider the~~  
6 ~~following criteria:~~

7 ~~(a) Whether the petitioner qualifies for staff assistance pursuant to subsection (1) of this~~  
8 ~~rule;~~

9 ~~(b) Whether the petitioners' books and records are organized consistent with rule 25-~~  
10 ~~30.110, F.A.C, so as to allow Commission personnel to verify costs and other relevant factors~~  
11 ~~within the 30-day time frame set out in this rule;~~

12 ~~(c) Whether the petitioner has filed annual reports;~~

13 ~~(d) Whether the petitioner has paid applicable regulatory assessment fees;~~

14 ~~(e) Whether the petitioner has at least one year of experience in utility operation;~~

15 ~~(f) Whether the petitioner has filed additional relevant information in support of eligibility~~  
16 ~~together with reasons why the information should be considered;~~

17 ~~(g) Whether the utility was granted a rate case increase within the 2-year period prior to~~  
18 ~~the receipt of the petition under review;~~

19 ~~(h) Whether a final order in a rate proceeding that established the utility's rate base, capital~~  
20 ~~structure, annual operating expenses and revenues has been issued for the utility within the 7-~~  
21 ~~year period prior to the receipt of the petition under review.~~

22 ~~(6) The Commission will deny the petition if the petitioner does not remit the filing fee, as~~  
23 ~~provided by paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance of the~~  
24 ~~petition.~~

25 ~~(7) Each petitioner for limited alternative rate increase shall provide the following general~~

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from existing law.

1 information to the Commission:

2 (a) ~~The name of the utility as it appears on the utility's certificate and the address of the~~  
3 ~~utility's principal place of business; and,~~

4 (b) ~~The type of business organization under which the utility's operations are conducted:~~

5 ~~1. If the petitioner is a corporation, the date of incorporation and the names and addresses of~~  
6 ~~all persons who own five percent or more of the petitioner's stock; or~~

7 ~~2. If the petitioner is not a corporation, the names and addresses of the owners of the~~  
8 ~~business.~~

9 (8) ~~The petitioner shall provide a schedule showing:~~

10 (a) ~~Annualized revenues by customer class and meter size for the most recent 12-month~~  
11 ~~period using the rates in effect at the time the utility files its petition; and,~~

12 (b) ~~Current and proposed rates for all classes of customers.~~

13 (9) ~~The petitioner shall provide a statement that the figures and calculations upon which~~  
14 ~~the change in rates is based are accurate and that the change will not cause the utility to exceed~~  
15 ~~its last authorized rate of return on equity.~~

16 (5)(10) ~~A financial or engineering audit of the utility's financial or engineering books and~~  
17 ~~records will shall not be required in determining whether to approve or deny the application~~  
18 ~~conjunction with the petition under review.~~

19 (6)(11) ~~Based upon the criteria contained in subsection (2), the Commission will approve,~~  
20 ~~deny, or approve the application~~ The petition will be approved, denied, or approved with  
21 modifications that may include a reduction or an increase in the requested rate increase, within  
22 90 days from the official filing date as established in subsection (4) of this rule.

23 (7)(12) Any revenue increase granted under the provisions of this rule shall be held subject  
24 to refund with interest in accordance with subsection rule 25-30.360(4), F.A.C., ~~for a period of~~  
25 ~~15 months after the filing of the utility's annual report required by rule 25-30.110, F.A.C., for~~

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1 ~~the year the adjustment in rates was implemented. Subsection 25-30.360(6), F.A.C., does not~~  
2 ~~apply to any money collected subject to refund under this subsection.~~

3 ~~(8)(13) To insure overearnings will not occur due to the implementation of this rate~~  
4 ~~increase, T~~ the Commission staff will conduct an earnings review of the twelve-month period  
5 following the implementation of the revenue increase. utility's annual report to determine any  
6 potential overearnings for the year the adjustment in rates was implemented.

7 (a) At the end of the twelve-month period, the utility has 90 days to complete and file  
8 Form PSC 1025 (03/20), entitled "Limited Alternative Rate Increase Earnings Review," which  
9 is incorporated into this rule by reference and is available at [Dep't of State hyperlink].

10 (b) In the event the utility needs additional time to complete the form, the utility may  
11 request an extension of time supported by a statement of good cause that must be filed with  
12 Commission staff within seven days prior to the 90-day deadline. "Good cause" means a  
13 showing of financial hardship, unforeseen events, or other events outside the control of the  
14 utility, but does not include reasons such as management oversight.

15 ~~(c)(14) If, within 15 months after the filing of a utility's annual report the Commission~~  
16 staff's earnings review demonstrates finds that the utility exceeded the range of its last  
17 authorized rate of return on equity after an adjustment in rates, as authorized by this rule, was  
18 implemented within the year for which the report was filed, such overearnings, up to the  
19 amount held subject to refund, with interest, shall be disposed of for the benefit of the  
20 customers. If the Commission staff determines that the utility did not exceed the range of its  
21 last authorized return on equity, the revenue increase will no longer be held subject to refund.

22 ~~(9)(15) In the event of a protest of the pProposed aAgency aAction oOrder is protested~~  
23 pursuant to Rrule 28-106.111, F.A.C., by a substantially affected person other than the utility,  
24 the utility must file a staff assisted rate case application pursuant to Rule 25-30.455, F.A.C.,  
25 within 21 days from the date the protest is filed or the utility's application for a limited

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1 alternative rate increase will be deemed withdrawn.

2 (10) Upon the utility filing a staff assisted rate case application pursuant to subsection (9)  
3 of this rule:

4 (a) unless the Proposed Agency Action Order proposes a rate reduction, The utility may  
5 implement the rates established in the pProposed aAgency aAction oOrder on a temporary  
6 basis subject to refund with interest in accordance with Rule 25-30.360, F.A.C.; ~~upon the~~  
7 ~~utility filing a staff assisted rate case application pursuant to rule 25-30.455, F.A.C., within 21~~  
8 ~~days of the date the protest is filed.~~

9 (b)(16) In the event of a protest, The limit on the maximum increase provided in  
10 subsection (1) of this rule will shall no longer apply; and

11 (c) The application will be processed under Rule 25-30.455, F.A.C.

12 ~~(17) If the utility fails to file a staff assisted rate case application within 21 days in the~~  
13 ~~event of a protest, the petition for a limited alternative rate increase will be deemed~~  
14 ~~withdrawn.~~

15 *Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS.*  
16 *History—New 3-15-05, Amended 12-16-08, 8-10-14, 7-1-18, \_\_\_\_\_.*

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FLORIDA PUBLIC SERVICE COMMISSION  
LIMITED ALTERNATIVE RATE INCREASE EARNINGS REVIEW

The 12-month period following the implementation of the revenue increase should be used for the purposes of completing this form.

<b>Utility Name</b> _____	<b>Schedule No. 1-A</b>
<b>Schedule of Water Rate Base</b>	
<b>12-Month Period Ended</b> _____	
<b>Description</b>	<b>Per Utility</b>
1 Plant in Service	_____
2 Land and Land Rights	_____
3 Non-used and Useful Components (1)	_____
4 Accumulated Depreciation	_____
5 Contribution in Aid of Construction (CIAC)	_____
6 Amortization of CIAC	_____
7 Net Debit Deferred Income Taxes	_____
8 Advances for Construction	_____
9 Working Capital Allowance	_____
10 Acquisition Adjustments (2)	_____
11 Accumulated Amortization of Acquisition Adjustments	_____
<b>12 Rate Base</b>	<b>=====</b>
<b>Notes:</b>	
(1) Estimate based on the methodology used in the last rate proceeding.	
(2) Include only those Acquisition Adjustments that have been approved by the Commission.	

Utility Name _____		Schedule No. 1-B
Schedule of Wastewater Rate Base		
12-Month Period Ended _____		
Description	Per Utility	
1 Plant in Service	_____	
2 Land and Land Rights	_____	
3 Non-used and Useful Components (1)	_____	
4 Accumulated Depreciation	_____	
5 Contribution in Aid of Construction (CIAC)	_____	
6 Amortization of CIAC	_____	
7 Net Debit Deferred Income Taxes	_____	
8 Advances for Construction	_____	
9 Working Capital Allowance	_____	
10 Acquisition Adjustments (2)	_____	
11 Accumulated Amortization of Acquisition Adjustments	_____	
12 Rate Base	=====	
Notes:		
(1) Estimate based on the methodology used in the last rate proceeding.		
(2) Include only those Acquisition Adjustments that have been approved by the Commission.		

Utility Name _____				Schedule No. 2
Schedule of Current Cost of Capital				
12-Month Period Ended _____				
Class of Capital (a)	Dollar Amount (b)	Percentage of Capital (c)	Actual Cost Rates (d)	Weighted Cost (e) = (c x d)
Common Equity	_____	_____	_____	_____
Preferred Stock	_____	_____	_____	_____
Long-Term Debt	_____	_____	_____	_____
Short-Term Debt	_____	_____	_____	_____
Customer Deposits	_____	_____	_____	_____
Tax Credits - Zero Cost	_____	_____	_____	_____
Tax Credits - Weighted Cost	_____	_____	_____	_____
Deferred Income Taxes	_____	_____	_____	_____
Other (Explain)	_____	_____	_____	_____
Total	=====	=====	=====	=====
Notes:				
(1) Consistent with the methodology used in the last rate proceeding.				
(2) Upper limit of the last authorized return on equity or current leverage if none has been established.				

Utility Name _____		Schedule No. 3-A
Statement of Water Operations		
12-Month Period Ended _____		
Description	Per Utility	
1 Operating Revenues :	_____	
<b>Operating Expenses</b>		
2 Operation & Maintenance	_____	
3 Depreciation	_____	
4 Amortization	_____	
5 Taxes Other Than Income	_____	
6 Income Taxes	_____	
7 Total Operating Expense	_____	
8 Operating Income	=====	

Utility Name _____		Schedule No. 3-B
Statement of Wastewater Operations		
12-Month Period Ended _____		
Description	Per Utility	
1 Operating Revenues :	_____	
<b>Operating Expenses</b>		
2 Operation & Maintenance	_____	
3 Depreciation	_____	
4 Amortization	_____	
5 Taxes Other Than Income	_____	
6 Income Taxes	_____	
7 Total Operating Expense	_____	
8 Operating Income	=====	

Utility Name _____	Schedule No. 4-A
Analysis of Water Operation and Maintenance Expense	
12-Month Period Ended _____	
	Per Utility
(601) Salaries and Wages - Employees	_____
(603) Salaries and Wages - Officers	_____
(604) Employee Pensions and Benefits	_____
(610) Purchased Water	_____
(615) Purchased Power	_____
(616) Fuel for Power Production	_____
(618) Chemicals	_____
(620) Materials and Supplies	_____
(630) Contractual Services - Billing	_____
(631) Contractual Services - Professional	_____
(635) Contractual Services - Testing	_____
(636) Contractual Services - Other	_____
(640) Rents	_____
(650) Transportation Expense	_____
(655) Insurance Expense	_____
(665) Regulatory Commission Expense	_____
(670) Bad Debt Expense	_____
(675) Miscellaneous Expense	_____
Total	=====

Utility Name _____	Schedule No. 4-B
Analysis of Wastewater Operation and Maintenance Expense	
12-Month Period Ended _____	
	Per Utility
(701) Salaries and Wages - Employees	_____
(703) Salaries and Wages - Officers	_____
(704) Employee Pensions and Benefits	_____
(710) Purchased Sewage Treatment	_____
(711) Sludge Removal Expense	_____
(715) Purchased Power	_____
(716) Fuel for Power Production	_____
(718) Chemicals	_____
(720) Materials and Supplies	_____
(730) Contractual Services - Billing	_____
(731) Contractual Services - Professional	_____
(735) Contractual Services - Testing	_____
(736) Contractual Services - Other	_____
(740) Rents	_____
(750) Transportation Expense	_____
(755) Insurance Expense	_____
(765) Regulatory Commission Expense	_____
(770) Bad Debt Expense	_____
(775) Miscellaneous Expense	_____
Total	=====

## Notice of Proposed Rule

### **PUBLIC SERVICE COMMISSION**

RULE NO:   RULE TITLE:

25-30.457:   Limited Alternative Rate Increase

PURPOSE AND EFFECT: The purpose of this rulemaking is to amend the rule to clarify the application requirements for a limited alternative rate increase and to simplify the language to make it more understandable. The effect of this rulemaking will be to make the rule requirements clear to all interested persons. Rule requirements are modified to enable more small utilities to use the limited alternative rate increase process in rate setting.

Docket No. 20200044-WS

SUMMARY: The rule is amended to identify in one subsection all the information that must be contained in the application for limited alternative rate increase. Commission staff will conduct an earnings review of the twelve-month period following the implementation of the revenue increase based on information provided by the utility in a limited alternative rate increase earnings review form. Utilities will no longer be required to provide security for money collected subject to refund or file monthly refund reports with the Commission.

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 transactional cost savings 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), 367.0814, 367.121 FS

LAW IMPLEMENTED: 367.0814 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](mailto:kcowdery@psc.state.fl.us).

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.457 Limited Alternative Rate Increase.

(1) As an alternative to a staff assisted rate case as described in ~~R~~rule 25-30.455, F.A.C., or to staff assistance in alternative rate setting as described in ~~R~~rule 25-30.456, F.A.C., water utilities whose total gross annual operating revenues are \$300,000 or less for water service and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for wastewater service may file with the Office of Commission Clerk an application ~~petition the Commission~~ for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service ~~by filing with the Office of Commission Clerk the information required by subsections (7), (8) and (9) of this rule.~~

(2) The application for limited alternative rate increase must contain the following information:

(a) The name of the utility as it appears on the utility's certificate and the address of the utility's principal place of business;

- (b) The type of business organization under which the utility's operations are conducted;
- (c) If the utility is a corporation, the date of incorporation and the names and addresses of all persons who own five percent or more of the utility's stock;
- (d) If the utility is not a corporation, the names and addresses of the owners of the business;
- (e) A schedule showing the annualized revenues by customer class and meter size for the most recent 12-month period using the rates in effect at the time the utility files its application;
- (f) A schedule showing the current and proposed rates for all classes of customers;
- (g) A statement providing the specific basis or bases for the requested rate increase;
- (h) If the requested rate increase is based upon the utility's underearning or the utility's expectation to underearn, a statement explaining why the utility is, or is expected to, underearn its authorized rate of return;
- (i) A statement that the figures and calculations upon which the change in rates is based are accurate and that the change will not cause the utility to exceed its last authorized rate of return on equity;
- (j) A statement that the utility is currently in compliance with its annual report filing in accordance with Rule 25-30.110(3), F.A.C.;
- (k) A statement that the utility has paid all required regulatory assessment fees or is current on any approved regulatory assessment fee payment plan;
- (l) A statement that an order in a rate proceeding that established the utility's rate base, capital structure, annual operating expenses and revenues has been issued for the utility within the 7-year period prior to the official date of filing of the application; and
- (m) Any additional relevant information in support of the application and reasons why the information should be considered.

(3) Within 30 days of the application's filing date, Commission staff will notify the utility in writing that the application requirements of subsection (2) of this rule have been met or that the requirements of subsection (2) have not been met with an explanation of the application's deficiencies.

(2) Within 30 days of receipt of the completed petition, the Commission will evaluate the petition and determine the petitioner's eligibility for a limited alternative rate increase.

(3) The Commission will notify the petitioner in writing as to whether the petition is accepted or denied. If the petition is accepted, staff assistance in alternative rate setting will be initiated. If the petition is denied, the notification of petition denial will state the deficiencies in the petition with reference to the criteria set out in subsection (5) of this rule.

(4) The date of Commission staff's written notification to the utility that the requirements of subsection (2) of this rule have been met will be considered the date of official acceptance by the Commission of the application. The official date of filing is established as will be 30 days after the official acceptance by the Commission of the application date of the written notification to the petitioner of the Commission's acceptance of the petition. The application is deemed denied if the utility does not remit the filing fee as required by paragraph 25-30.020(2)(f), F.A.C., within 30 days after the official acceptance of the application.

(5) In determining whether to grant or deny the petition, the Commission will consider the following criteria:

- (a) Whether the petitioner qualifies for staff assistance pursuant to subsection (1) of this rule;
- (b) Whether the petitioners' books and records are organized consistent with rule 25-30.110, F.A.C., so as to allow Commission personnel to verify costs and other relevant factors within the 30-day time frame set out in this rule;
- (c) Whether the petitioner has filed annual reports;
- (d) Whether the petitioner has paid applicable regulatory assessment fees;
- (e) Whether the petitioner has at least one year of experience in utility operation;
- (f) Whether the petitioner has filed additional relevant information in support of eligibility together with reasons why the information should be considered;
- (g) Whether the utility was granted a rate case increase within the 2-year period prior to the receipt of the petition under review;



~~(h) Whether a final order in a rate proceeding that established the utility's rate base, capital structure, annual operating expenses and revenues has been issued for the utility within the 7-year period prior to the receipt of the petition under review.~~

~~(6) The Commission will deny the petition if the petitioner does not remit the filing fee, as provided by paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance of the petition.~~

~~(7) Each petitioner for limited alternative rate increase shall provide the following general information to the Commission:~~

~~(a) The name of the utility as it appears on the utility's certificate and the address of the utility's principal place of business; and,~~

~~(b) The type of business organization under which the utility's operations are conducted:~~

~~1. If the petitioner is a corporation, the date of incorporation and the names and addresses of all persons who own five percent or more of the petitioner's stock; or~~

~~2. If the petitioner is not a corporation, the names and addresses of the owners of the business.~~

~~(8) The petitioner shall provide a schedule showing:~~

~~(a) Annualized revenues by customer class and meter size for the most recent 12-month period using the rates in effect at the time the utility files its petition; and,~~

~~(b) Current and proposed rates for all classes of customers.~~

~~(9) The petitioner shall provide a statement that the figures and calculations upon which the change in rates is based are accurate and that the change will not cause the utility to exceed its last authorized rate of return on equity.~~

~~(5)(10) A financial or engineering audit of the utility's financial or engineering books and records will shall not be required in determining whether to approve or deny the application ~~conjunction with the petition under review.~~~~

~~(6)(11) Based upon the criteria contained in subsection (2), the Commission will approve, deny, or approve the application The petition will be approved, denied, or approved with modifications that may include a reduction or an increase in the requested rate increase, within 90 days from the official filing date as established in subsection (4) of this rule.~~

~~(7)(12) Any revenue increase granted under the provisions of this rule shall be held subject to refund with interest in accordance with subsection rule 25-30.360(4), F.A.C., for a period of 15 months after the filing of the utility's annual report required by rule 25-30.110, F.A.C., for the year the adjustment in rates was implemented. Subsection 25-30.360(6), F.A.C., does not apply to any money collected subject to refund under this subsection.~~

~~(8)(13) To insure overearnings will not occur due to the implementation of this rate increase, The Commission staff will conduct an earnings review of the twelve-month period following the implementation of the revenue increase. ~~utility's annual report to determine any potential overearnings for the year the adjustment in rates was implemented.~~~~

~~(a) At the end of the twelve-month period, the utility has 90 days to complete and file Form PSC 1025 (03/20), entitled "Limited Alternative Rate Increase Earnings Review." which is incorporated into this rule by reference and is available at [Dep't of State hyperlink].~~

~~(b) In the event the utility needs additional time to complete the form, the utility may request an extension of time supported by a statement of good cause that must be filed with Commission staff within seven days prior to the 90-day deadline. "Good cause" means a showing of financial hardship, unforeseen events, or other events outside the control of the utility, but does not include reasons such as management oversight.~~

~~(c)(14) If, within 15 months after the filing of a utility's annual report the Commission staff's earnings review demonstrates finds that the utility exceeded the range of its last authorized rate of return on equity after an adjustment in rates, as authorized by this rule, was implemented within the year for which the report was filed, such overearnings, up to the amount held subject to refund, with interest, shall be disposed of for the benefit of the customers. If the Commission staff determines that the utility did not exceed the range of its last authorized return on equity, the revenue increase will no longer be held subject to refund.~~

~~(9)(15) In the event of a protest of the pProposed aAgency aAction oOrder is protested pursuant to~~

Rule 28-106.111, F.A.C., by a substantially affected person other than the utility, the utility must file a staff assisted rate case application pursuant to Rule 25-30.455, F.A.C., within 21 days from the date the protest is filed or the utility's application for a limited alternative rate increase will be deemed withdrawn.

(10) Upon the utility filing a staff assisted rate case application pursuant to subsection (9) of this rule:

(a) unless the Proposed Agency Action Order proposes a rate reduction, the utility may implement the rates established in the Proposed Agency Action Order on a temporary basis subject to refund with interest in accordance with Rule 25-30.360, F.A.C.; upon the utility filing a staff assisted rate case application pursuant to rule 25-30.455, F.A.C., within 21 days of the date the protest is filed.

(b)(16) In the event of a protest, the limit on the maximum increase provided in subsection (1) of this rule will shall no longer apply; and

(c) The application will be processed under Rule 25-30.455, F.A.C.

(17) If the utility fails to file a staff assisted rate case application within 21 days in the event of a protest, the petition for a limited alternative rate increase will be deemed withdrawn.

*Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History—New 3-15-05, Amended 12-16-08, 8-10-14, 7-1-18, \_\_\_\_\_.*

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 31, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 45, Number 197, October 9, 2019.

STATEMENT OF FACTS AND CIRCUMSTANCES  
JUSTIFYING RULE

The purpose of this rule is to allow small utilities to obtain a limited amount of rate relief more quickly, thus resulting in less costly regulation through lower rate case expense and reduction in Commission staff labor. The amendments clarify rule requirements and better organize the rule. The rule is restructured to specifically identify what information is required in the application, including an explanation of the reasons why the utility is asking for the rate increase. The Commission staff earnings review timeframe has been amended and utilities will no longer be required to provide security for money collected subject to refund or file monthly refund reports with the Commission. These rule amendments are intended to enable more small utilities to use the limited alternative rate increase process in rate setting.

STATEMENT ON FEDERAL STANDARDS

There are no federal standards for this rule.



# 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:** February 25, 2020

**TO:** Kathryn Gale Winter Cowdery, 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 Adoption of Rule 25-30.457, Florida Administrative Code (F.A.C.) Limited Alternative Rate Increase.

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Commission staff is recommending revisions to Rule 25-30.457, Florida Administrative Code (F.A.C.), Limited Alternative Rate Increase. The rule is applicable to water utilities whose total gross annual operating revenues are \$300,000 or less for water service and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for wastewater service. The purposes of these recommended rule revisions are to (1) update and clarify the application filing requirements for a limited alternative rate increase, (2) simplify the language to make it more understandable, and (3) remove the requirements that a utility provide security for money collected subject to refund and the corresponding monthly filing of refund reports with the Commission. The proposed revisions are discussed in detail in the staff recommendation.

The attached Statement of Estimated Regulatory Costs (SERC) addresses the economic impacts and considerations required pursuant to Section 120.541, Florida Statutes (F.S.). The proposed modifications to Rule 25-30.457, F.A.C., will lessen the financial burden on qualifying water and wastewater utilities when seeking a rate increase pursuant to the limited alternative rate increase process.

Staff sent a data request to the five water and wastewater utilities that have used the existing Rule 25-30.457, F.A.C. In response to staff's data request, these utilities estimate the current cost to secure monies and file monthly reports is \$1,500 to \$3,000. The responses also state that the proposed requirement to file the form *Limited Alternative Rate Increase Earnings Review* at the end of the twelve-month period would cost a utility approximately \$500 to \$1,000. However, since the monthly reporting requirement is proposed to be eliminated, the incremental cost to the utility will result in a decrease of \$1,000 to \$2,000. The modified rule provides an alternative to above described qualifying water and wastewater utilities for staff assistance in rate settings.

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 not potentially have adverse impacts on small businesses, 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.

Staff held a noticed rule development workshop on October 30, 2019. Staff issued a data request on January 9, 2020, to utilities that have previously filed for a rate increase pursuant to the current Rule 25-30.457, F.A.C. The purpose of the request was to gauge the incremental financial impacts of filing for a rate increase pursuant to the current rule and pursuant to the proposed revisions to the rule. Responses to staff's data request were received on January 10, 2020. The responses have been evaluated during the preparation of this SERC. 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  
Rule 25-30.457, 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:** This Limited Alternative Rate Increase rule is applicable to water and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for water and wastewater services. The rule revisions are intended to establish an abbreviated procedure for a limited alternative rate increase that is less time consuming and less costly for the qualifying utilities, their customers, and the Commission.

The rule is being amended to update and clarify the application filing requirements for the limited alternative rate increase application process and to simplify the language to make the rule more readable and understandable. The rule amendments also remove the requirements that a utility provide security for money collected subject to refund and file monthly refund reports with the Commission. Further, the modifications implement the requirement for the utility to file a 12-month Earnings Review. The modified rule provides an alternative to above described qualifying water and wastewater utilities for staff assistance in rate settings.

Five water and wastewater utilities that have used the existing Limited Alternative Rate Increase rule state, in response to staff's data request, that they have experienced costs amounting to approximately \$125 to \$250 per month or approximately \$1,500 to \$3,000 per year, related to obtaining a security for money collected subject to refund, and for monthly reporting requirements. The responses further state that the proposed rule would eliminate these monthly reporting costs. The utilities state the anticipated regulatory costs to comply with the Commission's 12-month Earnings Review would be \$500 to \$1,000 resulting in a net savings to the utility over the current reporting requirements.

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 modified rule will be applicable to 78 water utilities and 59 wastewater utilities which meet the requirements set forth in the rule.

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

Types of individuals to be affected by this rule will be the customers and ratepayers of the affected water and wastewater utilities. The exact number of customers affected by this rule is not known. However, given the number of water and wastewater utilities referenced above, the number of customers affected would be limited to customers of those utilities that qualify for the use of the limited alternative rate increase option. Ratepayers benefit when a utility is able to take advantage of a more efficient and less costly means of filing a rate case. The modified rule provides tools designed to provide

a more stable revenue stream, resulting in a more financially stable utility.

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.  
Paragraph 2(a) through (m) of the proposed rule requires certain information from the utilities. Most, if not all, of this information was required under the existing Rule or obtained by staff from the utility through the data discovery process. The responses from the utilities state that they anticipate a nominal



cost to gather, analyze and compile information for submission to the Commission. The responses to staff's data request state that there would be a one-time cost of about \$500 to \$1,000 to compile and submit the new annual filing requirement. However, these costs will be completely offset by the savings incurred by the removal of the monthly filing requirement.

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(6), 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.

Some of the water and wastewater utilities that would qualify to utilize the Limited Alternative Rate Increase rule may qualify as "small business" with a net worth less than \$5 million. Staff believes that it is reasonable to assume that many of the water and wastewater utilities, some of their customers, and some businesses hired by the utilities to perform infrastructure repair or replacement work may also meet the definition of a small business as defined by Section 288.703, F.S. Potential cost impacts would be the same as discussed in Sections B and D above.

The proposed modifications to the Rule 25-30.457, F.A.C., will require certain information that was previously considered by the Commission and obtained by Commission staff through data requests. Since the utilities were already providing this information, they do not anticipate any adverse impacts from the revised rule which is codifying the previously submitted information. In addition, the modification will eliminate the utility's requirement to secure its money collected subject to refund and file monthly refund reports with the Commission which the utilities estimate would be \$1,500 to \$3,000. As stated in responses to staff's data request, the new requirement to file the form *Limited Alternative Rate Increase Earnings Review* at the end of the twelve-month period would cost a utility approximately \$500 to \$1,000. However, since the monthly reporting requirement is proposed to be eliminated, the incremental cost to the utility will result in a decrease of \$1,000 to \$2,000.

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.