

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

SELECT A TYPE: amendment

25-30.436: General Information and Instructions Required of Water and Wastewater Utilities in an Application for Rate Increase

25-30.437: Financial, Rate, and Engineering Minimum Filing Requirements for Water and Wastewater Utilities in an Application for Rate Increase

25-30.438: Information Required in Application for Rate Increase From Utilities with Related Parties

25-30.4385: Additional Rate Information Required in Application for Rate Increase

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

25-30.443: Minimum Filing Requirements for Class C Water and Wastewater Utilities

PURPOSE AND EFFECT: The purpose of amending Rules 25-30.436 and 25-30.437 is to clarify and update filing requirements for water and wastewater utility rate increase requests. The purpose of repealing Rules 25-30.438, 25-30.4385 is to delete obsolete requirements. The purpose of repealing Rules 25-30.440 and 25-30.443 is to move filing requirements into Rule 25-30.437. The effect of these amendments and repeals would be to delete unnecessary, obsolete, or duplicate rule provisions; clarify and update rule requirements; and improve administrative efficiency.

Docket No. 20200193-PU

SUMMARY: Rule 25-30.436, F.A.C., is amended to require e-filing of rate case application documents and to reduce the number of paper copies of documents that need to be filed; to incorporate the filing requirements for Class C water and wastewater utilities that were previously in Rule 25-30.443, F.A.C.; the requirement for an affidavit of compliance with Rule 25-22.0407, F.A.C., is change to requiring a statement signed by a utility officer; land record requirement language is updated for consistency with other rules; the Commission designee is changed to the Director of the office of primary responsibility for the rate filing; and the rule defines the “good cause” that is required for an extension of time for submitting rate case expense following issuance of the final order. Rule 25-30.437, F.A.C., is amended to state that the rule requirements apply to Class C water and wastewater utilities, which were duplicated in Rule 25-30.443, F.A.C.; the engineering requirements previously in Rule 25-30.440, F.A.C., are merged into Rule 25-30.437, F.A.C. As a result of Rules 25-30.440 and 25-30.443, F.A.C., being merged into other rules, they are repealed as unnecessary. Rules 25-30.438 and 25-30.4385, F.A.C., are repealed as obsolete and unnecessary.

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/repeals will not have an adverse impact on economic growth, business competitiveness, or small business and there would be no transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rules. The SERC concluded that the proposed rules will result in administrative efficiency and in cost reductions that will be beneficial to utilities and their customers.

The agency has determined that the proposed rules 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), 367.0182(5), 367.121 FS

LAW IMPLEMENTED: 367.081, 367.0812, 367.082, 367.083, 367.121 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) 413-6199, kcowdery@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS: [TYPE AND STRIKE VERSION]

25-30.436 General Information and Instructions Required of ~~Class A and B~~ Water and Wastewater Utilities in an Application for Rate Increase.

(1) Each applicant for a rate increase must ~~shall~~ provide the following general information to the Commission:

(a) through (e) No change.

(f) ~~A statement An affidavit~~ signed by an officer of the utility that states that the utility will comply with Rule 25-22.0407, F.A.C.

(g) A statement whether the applicant requests to have the case processed using the proposed agency action procedure outlined in Section ~~367.081(10)~~ ~~367.081(8)~~, F.S.

(2) The applicant's petition for rate relief will not be deemed filed until the appropriate filing fee has been paid and all minimum filing requirements set forth in this rule and in Rule 25-30.437, F.A.C., have been met, including filing of the applicant's prepared direct testimony unless the applicant has filed its petition pursuant to Section ~~367.081(10)~~ ~~367.081(8)~~, F.S. At a minimum, the direct testimony shall explain why the rate increase is necessary and address those areas anticipated at the time of filing to be at issue.

(3) The applicant must ~~shall~~ state any known deviation from the policies, procedures and guidelines prescribed by the Commission in relevant rules or in the company's last rate case.

(4) The rate case application and information required by this rule must be e-filed by the utility with the Office of Commission Clerk. Within seven calendar days after the electronic filing, the utility must provide to the Office of Commission Clerk ten paper copies of the filing, clearly labeled "COPY," and, as applicable, Commission Form PSC 1028 (12/20) for a Class A utility, Form PSC 1029 (12/20) for a Class B utility, or Commission Form PSC 1030 (12/20) for a Class C utility, which are incorporated by reference in Rule 25-30.437, F.A.C. For Class A and B utilities, only two copies of Schedule E-14, entitled Billing Analysis Schedules, are required. For Class C utilities, only two copies of Schedule E-6, entitled Billing Analysis Schedules, are required. The applicable Commission Form must be provided in Microsoft Excel format with formulas intact and unlocked. Excel files may be provided in media such as a USB flash drive, CD, or DVD, but may not be submitted by e-mail.

~~(5)~~(4) In the rate case application:

(a) Each schedule must ~~shall~~ be cross-referenced to identify related schedules as either supporting schedules or recap schedules.

(b) Each page of the filing must ~~shall~~ be consecutively numbered on 8 1/2 x 11-inch paper.

(c) Except for handwritten official company records, all data in the petition, exhibits and minimum filing requirements must ~~shall~~ be typed.

~~(d) Sixteen copies shall be filed with the Commission's Office of Commission Clerk, except as specifically identified in paragraph (4)(h) below or in Rule 25-30.437, 25-30.4385 or 25-30.440, F.A.C.~~

~~(d)(e) Any proposed~~ Whenever the applicant proposes any corrections, updates or other changes to the originally filed data must be e-filed by the utility, 20 copies shall be filed with the Office of Commission Clerk, Within seven calendar days after the electronic filing, the utility must provide to the Office of Commission Clerk ten paper copies of the filing, clearly labeled "COPY." Any schedules that have been changed must be provided in Microsoft Excel format with formulas intact and unlocked. Excel files may be provided in media such as a USB flash drive, CD, or DVD, but may not be submitted by e-mail. On the same day as the e-filing, the utility must serve an electronic copy of the filing on each party. with copies also served on all parties of record at the same time.

~~(e)(f)~~ If the capital structure contains zero or negative equity, a return on equity must ~~shall~~ be requested, which shall be up to the maximum of the return of the current equity leverage formula established by order of this Commission pursuant to Section 367.081(4), F.S.

~~(f)(g)~~ The provisions of Rule 25-30.433, F.A.C., must ~~shall~~ be followed in preparing the utility's application.

~~(g)(h)~~ Any system that has costs allocated or charged to it from a parent, affiliate or related party, in addition to those costs reported on Schedule B-12 of Commission Form ~~PSC 1028 (12/20)~~ ~~PSC/AFD 19 W~~ for a Class A utility, ~~or PSC 1029 (12/20)~~ ~~PSC/AFD 20 W~~ for a Class B utility, or PSC 1030 (12/20) for a Class C utility, which are (incorporated by reference in Rule 25-30.437, F.A.C.,) must e-file shall file three copies of additional schedules that show the following information:

1. through 7. No change.

~~(h)(4)~~ For any land recorded on the utility's books since rate base was last established, the utility shall file documentation of the utility's right to access and continue use of the land upon which the utility treatment facilities are or will be located. Documentation of continued use must 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 applicant may submit an unrecorded, executed copy of the instrument granting the utility's right to access and continued use of the land upon which the utility treatment facilities are or will be located, provided the applicant files a recorded copy within the time required in the order granting a rate increase. copies of the documents that demonstrate that the utility owns the land upon which the utility treatment facilities are located, or that provides for the continued use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative.

~~(6)(5)~~ The Director of the division that has been assigned the primary responsibility for the filing is Commission Designee. The Deputy Executive Director, Technical shall be the designee of the Commission for purposes of determining whether the utility applicant has met the minimum filing requirements imposed by this rule.

~~(7)(6)~~ Within 60 days after the issuance of a final order entered in response to an application for increased rates, or, if applicable, within 60 days after the issuance of an order entered in response to a motion for reconsideration of the final order, each utility must shall submit a breakdown of actual rate case expense incurred, in total, in a manner consistent with Schedule No. B-10 of Commission Form PSC 1028 (12/20) for Class A utilities and Form PSC 1029 (12/20) for Class B utilities, and Schedule B-7 of Commission Form PSC 1030 (12/20) for Class C utilities, which are incorporated by reference (PSC/AFD Form 19 W or 20 W, whichever is applicable, as described in Rule 25-30.437, F.A.C.). If the deadline prescribed above cannot be met, a utility may request an extension from shall be granted by the Director of the Division of Accounting and Finance for good cause shown, such as financial hardship, severe illness, or significant weather events such as hurricanes, but good cause does not include reasons such as management oversight or vacation time.

Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.083, 367.121 FS. History—New 11-10-86, Amended 6-25-90, 11-30-93, 1-31-00, _____.

25-30.437 Financial, Rate, and Engineering Minimum Filing Requirements Information Required for of Class A and B Water and Wastewater Utilities in an Application for Rate Increase.

(1) Each ~~Class A or B~~ utility applying for a rate increase must shall provide the information required by Commission Form PSC 1028 (12/20) PSC/AFD 19 W (11/93), entitled "Class A Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing Requirements," or PSC 1029 (12/20) PSC/AFD 20 W (11/93), entitled "Class B Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing Requirements," or PSC 1030 (12/20), entitled "Minimum Filing Requirements for Class C Water and Wastewater Utilities," whichever is applicable. Commission Form PSC 1028 (12/20) is available at [hyperlink]; Commission Form PSC 1029 (12/20) is available at [hyperlink]; and Commission Form PSC 1030 (12/20) is available at [hyperlink]. These forms are incorporated into this rule by reference and are available on may be obtained from the Commission's website at www.floridapsc.com. Director, Division of Accounting and Finance, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399 0850.

(2) In compiling the required schedules, additional instructions are set forth below:

~~(a)(1)~~ Each section of this form must shall be indexed and tabbed, including a table of contents listing the page numbers of each schedule.

~~(b)(2)~~ If information requested in the form described above is not applicable to the applicant, so state and provide an explanation on the specific schedule.

~~(c)(3)~~ If a projected test year is used, provide a complete set of Commission Form PSC 1028 (12/20) PSC/AFD 19 W (for Class A utilities), or PSC 1029 (12/20) PSC/AFD 20 W (for Class B utilities), or PSC 1030 (12/20) for Class C utilities (as described above), which require a designation of historical or projected information. Such schedules must shall be submitted for the historical base year, and any year subsequent to the base year and prior to the projected test year, in addition to the projected test year. If no designation is shown on a schedule, submit that schedule for the test year only. In lieu of providing separate pages for the above required schedules, the information required can be combined on the same page by adding additional columns. In the rate base schedules, Section A, the beginning and end of year balances must shall be shown. For any intermediate period or year, only the year-end balance must shall be shown.

A schedule ~~must~~ ~~shall~~ also be included which describes in detail all methods and bases of projection, explaining the justification for each method or basis employed. If an historical test year is used, Schedule E-13 is not required.

~~(4) Only two copies of Schedule E-14, entitled Billing Analysis Schedules, be filed with the application. Each copy shall be submitted in a separate binder from the other required information.~~

~~(d)(5) If a petition for interim rates is filed, a utility must shall demonstrate that it is earning outside the range of reasonableness on rate of return calculated in accordance with Section 367.082(5), F.S. To demonstrate this In doing such, the utility must shall submit schedules of rate base, cost of capital and net operating income on an historical basis, with schedules of all adjustments thereto, consistent with Commission Form PSC 1028 (12/20) PSC/AFD 19-W (for a Class A utility), ~~or PSC 1029 (12/20) PSC/AFD 20-W~~ (for a Class B utility), or PSC 1030 (12/20) for a Class C utility (described above).~~

(3) Each applicant for a rate increase must e-file with the Office of Commission Clerk the additional engineering minimum filing requirements (MFRs), identified in paragraphs (a) – (k) below. Within seven calendar days after e-filing the additional engineering MFRs, the utility must provide to the Office of Commission Clerk two paper copies of the additional engineering MFRs clearly labeled “COPY,” with the exception of the detailed map required by paragraph (a), of which only one copy is required.

(a) A detailed map showing:

1. The location and size of the applicant’s distribution and collection lines as well as its plant sites, and
2. The location and respective classification of the applicant’s customers.

(b) A list of chemicals used for water and wastewater treatment, by type, showing the dollar amount and quantity purchased, the unit prices paid and the dosage rates utilized.

(c) The most recent chemical analyses for each water system conducted by a certified laboratory covering the inorganic, organic turbidity, microbiological, radionuclide, secondary and unregulated contaminants specified in Chapter 62-550, F.A.C.

(d) All water and wastewater plant operating reports for the test year and the year preceding the test year.

(e) The most recent sanitary survey for each water plant and inspection report for each wastewater plant conducted by the health department or the Department of Environmental Protection (DEP).

(f) All health department and DEP construction and operating permits.

(g) Any Notices of Violation, Consent Orders, Letters of Notice, or Warning Notices from the health department or DEP in the previous five years.

(h) A list of all field employees, their duties, responsibilities, and certificates held, and an explanation of each employee’s salary allocation method to the utility’s capital or expense accounts.

(i) A list, by serial number and description, of all vehicles owned or leased by the utility showing the original cost or annual lease expense, who the vehicle is assigned to, and the method of allocation to the utility.

(j) A list, by customer, of all complaints received during the test year, with an explanation of how each complaint was resolved.

(k) A copy of all customer complaints that the utility has received regarding DEP secondary water quality standards during the past five years.

(4) If a utility is requesting uniform rates for systems that are not already combined in a uniform rate, the information required by this rule must be submitted on a separate basis for each system that has not already been combined in a uniform rate. For those systems already combined in a uniform rate, the utility ~~must should~~ submit the required information as a single system. At a minimum, the following schedules of Form PSC 1030 (12/20) , described above, must be filed on a combined basis for all systems included in the filing: A-1, A-2, A-3, A-16, B-1, B-2, B-3, B-4, B-5, B-10, B-11, B-12, plus all “C,” “D” and “E” schedules (no “F” schedules are required).

(5)(6) In proposing rates, ~~each the~~ utility must shall use the base facility and usage charge rate structure, unless an alternative rate structure is adequately supported by the applicant. The base facility charge incorporates fixed expenses of the utility and is a flat monthly charge. This charge is applicable as long as a person is a customer of the utility, regardless of whether there is any usage. The usage charge incorporates variable utility expenses and is billed on a per 1,000 gallon or 100 cubic feet basis in addition to the base facility charge. The rates are first established with the 5/8" x 3/4" meter as the foundation. For meter sizes larger than 5/8", the base facility charge shall be based on the usage characteristics.

Rulemaking Authority 350.127(2), 367.0812(5), 367.121 FS. Law Implemented 367.081, 367.0812, 367.082 FS. History–New 6-10-75, Amended 10-16-77, 3-26-81, Formerly 25-10.176, Amended 11-10-86, 6-25-90,

11-30-93, _____.

25-30.438 Information Required in Application for Rate Increase From Utilities with Related Parties.

Rulemaking Authority 367.121 FS. Law Implemented 367.081 FS. History–New 11-10-86, Repealed

25-30.4385 Additional Rate Information Required in Application for Rate Increase.

Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.121 FS. History–New 11-30-93, Repealed

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

Rulemaking Authority 350.127(2), 367.0812(5), 367.121 FS. Law Implemented 367.081, 367.0812 FS. History–New 11-10-86, Amended 6-25-90, 2-10-15, Repealed

25-30.443 Minimum Filing Requirements for Class C Water and Wastewater Utilities.

Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.082 FS. History–New 6-25-90, Amended 11-30-93, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Cheryl Bulecza-Banks

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 46, Number 171, September 1, 2020.

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Notices Submitted to ACR

ID	Rule No./ Organization	Rule Title	Section	Issue	Date
23967165	25-30.436,...	General Information and Instructions Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase, Financial, Rate and Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase, Information Required in Application for Rate Increase From Utilities with Related Parties, Additional Rate Information Required in Application for Rate Increase, Additional Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase, Minimum Filing Requirements for Class C Water and Wastewater Utilities	Proposed	12/8/2020 Vol. 46/237	12/7/2020
23967068	25-22.0406,...	Notice and Public Information on General Rate Increase Requests and Petitions for Limited Proceedings by Electric and Gas Utilities, Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities	Proposed	12/8/2020 Vol. 46/237	12/7/2020
23966971	25-7.039	Natural Gas Utility Minimum Filing Requirements; Commission Designee	Proposed	12/8/2020 Vol. 46/237	12/7/2020

Notices Confirmed by ACR

ID	Rule No./ Organization	Rule Title	Section	Issue	Date
23966874	25-6.043	Investor-Owned Electric Utility Minimum Filing Requirements; Commission Designee	Proposed	12/8/2020 Vol. 46/237	12/7/2020

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