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-M-E-M-O-R-A-N-D-U-M-

DATE: March 24, 2022

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Cowdery) *SMC*
Division of Accounting and Finance (T. Brown) *ALM*
Division of Economics (Guffey) *JGH*

RE: Docket No. 20210122-WS – Proposed amendment of Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, F.A.C., related to water and wastewater utilities.

AGENDA: 04/05/22 -- Regular Agenda -- Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

RULE STATUS: Rule Hearing

SPECIAL INSTRUCTIONS: None

Case Background

Rule 25-30.445, Florida Administrative Code (F.A.C.), General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding (Limited Proceeding Rule), was amended and proposed for adoption, along with six other water and wastewater rules, by publication in the October 14, 2021 edition of the Florida Administrative Register (F.A.R.), Vol. 47, No. 200.¹ On November 3, 2021, the Office of Public Counsel (OPC) timely filed a petition for public hearing and requested changes to paragraph (6)(a) of the proposed Limited Proceeding Rule.

¹Rule 25-30.025, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, F.A.C., were filed for adoption with the Department of State and became effective on December 8, 2021.

Pursuant to notice published in the December 15, 2021 edition of the F.A.R., Vol. 47, No. 241, a Section 120.54(3)(c)1., Florida Statutes (F.S.), rule hearing was held before the Commission on January 20, 2022, for the purpose of giving affected persons an opportunity to present evidence and argument on all issues under consideration.² At the January 20, 2022 rule hearing, argument concerning the proposed rule was made by OPC and by Sunshine Water Services (SWS). In addition, the Commission raised two issues for consideration:

- (1) Whether a definition of the term “project” should be included in the rule; and
- (2) Whether, instead of capping the number of projects that may be requested in a limited proceeding, an alternative metric should be used, such as a dollar value threshold or a percentage of the capital outlay budget.

After hearing the arguments made by OPC and SWS, comments by Commission staff, and discussion by the Commissioners, the Commission asked staff to consider the issues and provide a staff recommendation for Commission determination at a future public hearing to be held at a regularly scheduled Commission Conference.

This item is being brought back to the Commission as a Section 120.54(3)(c)1., F.S., rule hearing,³ the purpose of which is for the Commission to decide whether to change the language of Rule 25-30.445, F.S., that was proposed on October 14, 2021. The provisions of Section 120.54(3)(c)1., F.S., give affected persons the opportunity to present evidence and argument on all issues under consideration. Pursuant to Section 120.54(3)(d), F.S.:

Any change, other than a technical change that does not affect the substance of the rule, must be supported by the record of public hearings held on the rule, must be in response to written material submitted to the agency within 21 days after the date of publication of the notice of intended agency action or submitted to the agency between the date of publication of the notice and the end of the final public hearing, or must be in response to a proposed objection by the [Joint Administrative Procedures] committee.

The Commission has jurisdiction pursuant to Sections 120.54(3), 350.127(2), 367.081, 367.0812, 367.0822, 367.121(1)(a), and 367.145(2), F.S.

²The January 20, 2022 rule hearing was also held for the purpose of the Commission determining whether to make changes to proposed Rule 25-30.4345, F.A.C., Notice of Requests for New or Revised Service Availability Charges or Policies and Notice of Requests for Allowance for Funds Prudently Invested (AFPI) Charges. The Commission voted to make changes to proposed Rule 25-30.4345, F.A.C. Rule 25-30.4345, F.A.C., was filed with the Department of State on February 15, 2022, and became effective on March 7, 2022.

³Notice of this rule hearing was published in the March 1, 2022 issue of the F.A.R., Vol. 48, No. 41.

FLORIDA PUBLIC SERVICE COMMISSION

COMMISSION CONFERENCE AGENDA

CONFERENCE DATE AND TIME: Tuesday, April 5, 2022, 9:30 a.m.

LOCATION: Betty Easley Conference Center, Joseph P. Cresse Hearing Room 148

DATE ISSUED: March 24, 2022

NOTICE

Persons affected by Commission action on certain items on this agenda may be allowed to address the Commission, either informally or by oral argument, when those items are taken up for discussion at this conference. These items are designated by double asterisks (**) next to the item number.

To participate informally, affected persons need only appear at the conference and request the opportunity to address the Commission on an item listed on the agenda. Informal participation is not permitted: (1) on dispositive motions and motions for reconsideration; (2) when a recommended order is taken up by the Commission; (3) in a rulemaking proceeding after the record has been closed; or (4) when the Commission considers a post-hearing recommendation on the merits of a case after the close of the record. The Commission allows informal participation at its discretion in certain types of cases (such as declaratory statements and interim rate orders) in which an order is issued based on a given set of facts without hearing. See Florida Administrative Code Rules 25-22.0021 (agenda conference participation) and 25-22.0022 (oral argument).

Conference agendas, staff recommendations, vote sheets, and transcripts are available online at <http://www.floridapsc.com>, by selecting *Conferences & Meeting Agendas* and *Commission Conferences of the FPSC*. An official vote of "move staff" denotes that the Item's recommendations were approved.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate at this proceeding should contact the Office of Commission Clerk no later than five days prior to the conference at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 or 850-413-6770 (Florida Relay Service, 1-800-955-8770 Voice or 1-800-955-8771 TDD). Assistive Listening Devices are available upon request from the Office of Commission Clerk, Gerald L. Gunter Building, Room 152.

The Commission Conference has a live video broadcast the day of the conference, which is available from the FPSC website. Upon completion of the conference, the archived video will be available from the website by selecting *Conferences & Meeting Agendas*, then *Audio and Video Event Coverage*.

EMERGENCY CANCELLATION OF CONFERENCE: If a named storm or other disaster requires cancellation of the Conference, Commission staff will attempt to give timely notice. Notice of cancellation will be provided on the Commission's website (<http://www.floridapsc.com>) under the Hot Topics link on the home page. Cancellation can also be confirmed by calling the Office of Commission Clerk at 850-413-6770.

If you have any questions, contact the Office of Commission Clerk at 850-413-6770 or Clerk@psc.state.fl.us.