

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: March 23, 2023

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Sapoznikoff) *SMC*
Division of Accounting and Finance (Richards) *ALM*
Division of Economics (Guffey) *JGH*

RE: Docket No. 20230025-WS – Proposed amendment of Rule 25-30.455, F.A.C., Staff Assistance in Rate Cases; Rule 25-30.456, F.A.C., Staff Assistance in Alternate Rate Setting; and Rule 35-30.457, F.A.C., Limited Alternative Rate Increase.

AGENDA: 04/04/23 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Passidomo

RULE STATUS: Proposal Should Not Be Deferred. The Rules Must Be Effective July 1, 2023.

SPECIAL INSTRUCTIONS: None

Case Background

Rule 25-30.455, Florida Administrative Code (F.A.C.), addresses the requirements and procedures for water and wastewater utilities to petition the Commission for staff assistance in rate cases. Rule 25-30.456, F.A.C., addresses the requirements and procedures for water and wastewater utilities to petition the Commission for staff assistance in alternative rate setting. Rule 25-30.457, F.A.C., addresses the requirements and procedures for water and wastewater utilities to obtain staff assistance for a limited alternative rate increase.

These three rules set forth the upper gross annual revenue limits for determining eligibility for water and wastewater utilities to receive staff assistance in rate setting. Section 367.0814(1),

Docket No. 20230025-WS

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Florida Statutes (F.S.), requires the Commission to adjust the gross annual revenue limits every five years, using the most recent cumulative five years of the price index established by the Commission pursuant to Section 367.081(4), F.S. Pursuant to this section, the amended rules need to be effective on July 1, 2023.

To comply with the statutory mandate set forth in Section 367.0814(1), F.S., staff initiated rulemaking to amend the rules to adjust the gross annual revenue limit for staff-assisted rate cases. The Notice of Development of Rulemaking for these rules appeared in the January 20, 2023, edition of the Florida Administrative Register, Volume 49, Number 13. There were no requests for a rule development workshop, and no workshop was held.

This recommendation addresses whether the Commission should propose the amendment of Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C. The Commission has jurisdiction pursuant to Sections 120.54, 350.127(2), 367.0814, and 367.121, F.S.

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-30.455, F.A.C., Staff Assistance in Rate Cases, Rule 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting, and Rule 25-30.457, F.A.C., Limited Alternative Rate Increase?

Recommendation: Yes. The Commission should propose the amendment of Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., as set forth in Attachment A. The Commission should also certify the rules as minor violation rules. (Sapoznikoff, Richards, Guffey)

Staff Analysis: Rule 25-30.455, F.A.C., allows certain water and wastewater utilities to petition the Commission for staff assistance in rate applications by submitting an “Application for a Staff-Assisted Rate Case.” Rule 25-30.456, F.A.C., allows certain water and wastewater utilities to petition the Commission for staff assistance in alternative rate setting by submitting an “Application for Staff Assistance in Alternative Rate Setting.” Rule 25-30.457, F.A.C., allows certain water and wastewater utilities to seek a limited alternative rate increase. Staff recommends that the Commission propose the amendment of Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., as set forth in Attachment A. Staff is recommending the amendment of these rules to comply with the statutory mandate set forth in Section 367.0814(1), F.S., that the gross annual revenue level to obtain staff assistance with rate setting be adjusted every five years based on the most recent cumulative five years of the price index established by the Commission pursuant to Section 367.081(4)(a), F.S.

Currently, Rules 25-30.455 and 25-30.456, F.A.C., allow water and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for water service, \$300,000 or less for wastewater service, or \$600,000 or less on a combined basis, to be eligible for staff assistance in rate or alternative rate cases. Rule 25-30.457, F.A.C., currently allows water and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for water service, or \$300,000 or less for wastewater service, to be eligible for staff assistance for a limited rate increase.

To comply with the statutory mandate of Section 367.0814(1), F.S., staff recommends increasing the gross annual operating revenue eligibility from \$300,000 or less to \$335,000 or less, per system type, or from \$600,000 or less to \$670,000 or less, when a combined basis is allowed. Staff derived the adjustment amounts based on the application of the five-year cumulative index (12.15 percent) established by the Commission pursuant to Section 367.081(4), F.S. When applied, the five-year cumulative index increases the estimated gross annual revenue threshold level by \$35,000.

Minor Violation Rules Certification

Pursuant to Section 120.695, F.S., for each rule filed for adoption, the agency head shall certify whether any part of the rule is designated as a rule the violation of which would be a minor violation. Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., are currently listed as minor violation rules by the Commission. These rules are minor violation rules because the violation of these rules would not result in economic or physical harm to a person, cause an adverse effect on the public health, safety, or welfare, or create a significant threat of such harm. Violations of

Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., with the proposed amendments would continue to be minor violations. Therefore, for the purposes of filing the proposed amended rules for adoption with the Department of State, staff recommends that the Commission certify Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., as minor violation rules.

Statement of Estimated Regulatory Costs

Subsection 120.54(3)(b)1., F.S., encourages agencies to prepare a Statement of Estimated Regulatory Costs (SERC) before the adoption, amendment, or repeal of any rule. A SERC was prepared for this rulemaking and is appended as Attachment B. As required by Section 120.541(2)(a)1., F.S., the SERC analysis includes whether the rule amendments are likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after implementation. None of the impact/cost criteria will be exceeded as a result of the recommended amendments.

The SERC concludes that the amendments to the rules will likely not directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within one year after implementation. Further, the SERC concludes 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. Thus, pursuant to Section 120.541(3), F.S., the proposed amendments to the rules do not require legislative ratification.

In addition, the SERC states that the proposed amendments to the rules would have no adverse impact on small businesses, would have no implementation or enforcement costs on the Commission or any other state or local government entity, and would have no impact on small cities or small counties. The SERC states that there will be no transactional costs likely to be incurred by individuals and entities required to comply with the requirements.

Conclusion

The Commission should propose the amendment of Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., as set forth in Attachment A. Staff recommends that the Commission certify the rules as minor violation rules.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rules should be filed for adoption with the Department of State, and the docket should be closed. (Sapoznikoff)

Staff Analysis: If no requests for hearing or comments are filed, the rules should be filed for adoption with the Department of State, and the docket should be closed.

1 **25-30.455 Staff Assistance in Rate Cases.**

2 (1) Water and wastewater utilities whose total gross annual operating revenues are \$335,000
3 ~~\$300,000~~ or less for water service or \$335,000 ~~\$300,000~~ or less for wastewater service, or
4 \$670,000 ~~\$600,000~~ or less on a combined basis, may file with the Office of Commission Clerk
5 an application for staff assistance in rate applications by submitting a completed staff assisted
6 rate case application. Reasonable and prudent rate case expense is eligible for recovery
7 through the rates developed by staff. Recovery of attorney fees and outside consultant fees
8 related to the rate case is determined based on the requirements set forth in Section
9 367.0814(3), F.S. To be eligible for staff assistance under this rule:

10 (a) The applicant or utility owner must have at least one year of experience operating the
11 utility for which the rate increase is being requested;

12 (b) The utility must be in compliance with its annual report filing in accordance with
13 subsection 25-30.110(3), F.A.C.; and

14 (c) The utility must have paid all required regulatory assessment fees or must be current on
15 any approved regulatory assessment fee payment plan.

16 (2) The appropriate application form, Commission Form PSC/AFD 2-W (11/86) (Rev. 06/14),
17 entitled "Application for a Staff Assisted Rate Case," is incorporated into this rule by
18 reference and is available at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04415>.

19 The form is also available on the Commission's website, www.floridapsc.com.

20 (3) Upon completion of the form, the applicant shall file it with the Office of Commission
21 Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee,
22 Florida 32399-0870.

23 (4)(a) Within 30 days of receipt of the completed application, the Commission will evaluate
24 the application and determine the applicant's eligibility for staff assistance.

25 (b) If the Commission has received four or more applications in the previous 30 days; or, if the

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1 Commission has 20 or more docketed staff assisted rate cases in active status on the date the
2 application is received, the Commission will deny initial evaluation of an application for staff
3 assistance and close the docket. When an application is denied under the provisions of this
4 paragraph, the Commission staff will notify the applicant of the date on which the application
5 may be resubmitted.

6 (c) Initially, determinations of eligibility will be conditional, pending an examination of the
7 condition of the applicant's books and records.

8 (5) Upon making its final determination of eligibility, the Commission staff will notify the
9 applicant in writing as to whether the application is officially accepted or denied. If the
10 application is accepted, a staff assisted rate case will be initiated. If the application is denied,
11 the notification of application denial will state the deficiencies in the application.

12 (6) The date of Commission staff's written notification to the utility that the utility is eligible
13 for staff assistance under this rule will be considered the date of official acceptance of the
14 application by the Commission. The official date of filing is 30 days after the official
15 acceptance of the application by the Commission staff.

16 (7) The application is deemed denied if the utility does not remit the filing fee, as provided by
17 paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance.

18 (8) An applicant may request reconsideration of the application denial within 15 days of
19 receipt of notification that the application is denied. The request will be decided by the full
20 Commission.

21 (9) A substantially affected person may file a petition to protest the Commission's proposed
22 agency action in a staff assisted rate case within 21 days of issuance of the Notice of Proposed
23 Agency Action Order, as set forth in Rule 28-106.111, F.A.C.

24 (10) A petition to protest the Commission's proposed agency action must conform to Rule 28-
25 106.201, F.A.C.

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1 (11) In the event of a protest of the Commission's Notice of Proposed Agency Action Order in
2 a staff assisted rate case, the utility must:

3 (a) Provide prefiled direct testimony in accordance with the Order Establishing Procedure
4 issued in the case. At a minimum, that testimony must adopt the Commission's Proposed
5 Agency Action Order;

6 (b) Sponsor a witness to support source documentation provided to the Commission staff in its
7 preparation of the staff audit, the staff engineering and accounting report and the staff
8 proposed agency action recommendation in the case;

9 (c) Include in its testimony the necessary factual information to support its position on any
10 issue that it chooses to take a position different than that contained in the Commission's
11 Proposed Agency Action Order; and,

12 (d) Meet all other requirements of the Order Establishing Procedure.

13 (12) Failure to comply with the dates established in the Order Establishing Procedure, or to
14 timely file a request for extension of time for good cause shown, may result in dismissal of the
15 staff assisted rate case and closure of the docket.

16 (13) In the event of a protest of the Commission's Proposed Agency Action Order in a staff
17 assisted rate case, the Commission staff will:

18 (a) File prefiled direct testimony to explain its analysis in the staff proposed agency action
19 recommendation. In the event the staff wishes to alter its position on any issue, it will provide
20 factual testimony to support its changed position;

21 (b) Meet all other requirements of the Order Establishing Procedure; and,

22 (c) Provide to the utility materials to assist the utility in the preparation of its testimony and
23 exhibits. This material will consist of an example of testimony filed by a utility in another
24 case, an example of testimony that would support the Proposed Agency Action Order in this
25 case, an example of an exhibit filed in another case, and examples of prehearing statements

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1 and briefs filed in other cases.

2 *Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS.*

3 *History—New 12-8-80, Formerly 25-10.180, Amended 11-10-86, 8-26-91, 11-30-93, 1-31-00,*

4 *12-16-08, 8-10-14, 2-19-17, 7-1-18, 12-8-21, _____.*

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1 **25-30.456 Staff Assistance in Alternative Rate Setting.**

2 (1) As an alternative to a staff assisted rate case as described in Rule 25-30.455, F.A.C., water
3 and wastewater utilities whose total gross annual operating revenues are \$335,000 ~~\$300,000~~ or
4 less for water service or \$335,000 ~~\$300,000~~ or less for wastewater service, or \$670,000
5 ~~\$600,000~~ or less on a combined basis, may file with the Office of Commission Clerk an
6 application for staff assistance in alternative rate setting by submitting a completed staff
7 assisted application for alternative rate setting. To be eligible for staff assistance under this
8 rule:

9 (a) The applicant or utility owner must have at least one year of experience operating the
10 utility for which the rate increase is being requested;

11 (b) The utility must be in compliance with its annual report filing in accordance with
12 subsection 25-30.110(3), F.A.C.; and

13 (c) The utility must have paid all required regulatory assessment fees or must be current on
14 any approved regulatory assessment fee payment plan.

15 (2) The application form, Commission Form PSC/AFD 25 (11/93) (Rev. 06/14), entitled
16 “Application for Staff Assistance for Alternative Rate Setting,” is incorporated into this rule
17 by reference and is available at: [http://www.flrules.org/Gateway/reference.asp?No=Ref-](http://www.flrules.org/Gateway/reference.asp?No=Ref-04414)
18 [04414](http://www.flrules.org/Gateway/reference.asp?No=Ref-04414). The form is also available on the Commission’s website, www.floridapsc.com.

19 (3) Upon completion of the form, the applicant must file it with the Office of Commission
20 Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee,
21 Florida 32399-0870.

22 (4)(a) Within 30 days of receipt of the completed application, the Commission will evaluate
23 the application and determine the applicant’s eligibility for staff assistance.

24 (b) If the Commission has received four or more alternative rate setting applications in the
25 previous 30 days; or, if the Commission has 20 or more docketed staff assisted rate cases in

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1 active status on the date the application is received, the Commission will deny initial
2 evaluation of an application for staff assistance and close the docket. When an application is
3 denied under the provisions of this paragraph, the Commission staff will notify the applicant
4 of the date on which the application may be resubmitted.

5 (c) Determinations of eligibility will be conditional, pending an examination of the condition
6 of the applicant's books and records.

7 (5) Upon making its final determination of eligibility, the Commission staff will notify the
8 applicant in writing as to whether the application is officially accepted or denied. If the
9 application is accepted, staff assistance in alternative rate setting will be initiated. If the
10 application is denied, the notification of application denial will state the deficiencies in the
11 application.

12 (6) The date of Commission staff's written notification to the utility that the utility is eligible
13 for staff assistance under this rule will be considered the date of official acceptance of the
14 application by the Commission. The official date of filing is 30 days after the date of official
15 acceptance of the application.

16 (7) The application is deemed denied if the utility does not remit the filing fee, as provided by
17 paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance.

18 (8) An applicant may request reconsideration of the application denial within 15 days of
19 receipt of notification that the application is denied. The request will be decided by the full
20 Commission.

21 (9) The Commission will, for the purposes of determining the amount of rate increase, if any,
22 compare the operation and maintenance expenses (O & M) of the utility to test year operating
23 revenues. The Commission will consider an allowance for return on working capital using the
24 one-eighth of O & M formula approach.

25 (10) The Commission will limit the maximum increase in operating revenues to 50 percent of

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1 test year operating revenues.

2 (11) The Commission will vote on a proposed agency action recommendation establishing
3 rates no later than 90 days from the official filing date as established in subsection (6) of this
4 rule.

5 (12) A substantially affected person may file a petition to protest the Commission's Proposed
6 Agency Action Order regarding a staff assisted alternative rate setting application within 21
7 days of issuance of the Notice of Proposed Agency Action Order as set forth in Rule 28-
8 106.111, F.A.C.

9 (13) A petition to protest the Commission's proposed agency action must conform to Rule 28-
10 106.201, F.A.C.

11 (14) In the event of protest of the Proposed Agency Action Order by a substantially affected
12 person, the rates established in the Proposed Agency Action Order may be implemented on a
13 temporary basis, subject to refund with interest in accordance with Rule 25-30.360, F.A.C. At
14 that time, the utility may elect to pursue rates set pursuant to the rate base determination
15 provisions of Rule 25-30.455, F.A.C.

16 (15) In the event of a protest, the maximum increase established in subsection (10) of this rule
17 no longer applies.

18 (16) In the event of a protest of the Commission's Proposed Agency Action Order in a staff
19 assisted alternative rate setting application, the utility must:

20 (a) Provide prefiled direct testimony in accordance with the Order Establishing Procedure
21 issued in the case. At a minimum, that testimony must adopt the Commission's Proposed
22 Agency Action Order;

23 (b) Sponsor a witness to support source documentation provided to the Commission staff in its
24 preparation of the staff engineering and accounting analysis and the staff proposed agency
25 action recommendation in the case;

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- 1 (c) Include in its testimony the necessary factual information to support its position on any
2 issue that it chooses to take a position different than that contained in the Commission's
3 Proposed Agency Action Order; and,
- 4 (d) Meet all other requirements of the Order Establishing Procedure.
- 5 (17) Failure to comply with the dates established in the Order Establishing Procedure, or to
6 timely file a request for extension of time for good cause shown, may result in dismissal of the
7 staff assisted alternative rate setting application and closure of the docket.
- 8 (18) In the event of protest of the Commission's Proposed Agency Action Order in a staff
9 assisted alternative rate setting application, the Commission staff will:
- 10 (a) File prefiled direct testimony to explain its analysis in the proposed agency action
11 recommendation. In the event the staff wishes to alter its position on any issue, it will provide
12 factual testimony to support its changed position;
- 13 (b) Meet all other requirements of the Order Establishing Procedure; and,
- 14 (c) Provide to the utility materials to assist the utility in the preparation of its testimony and
15 exhibits. This material will consist of an example of testimony filed by a utility in another
16 case, a sample of testimony that would support the Proposed Agency Action Order in this
17 case, an example of an exhibit filed in another case, and examples of prehearing statements
18 and briefs filed in other cases.
- 19 *Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS.*
20 *History—New 11-30-93, Amended 1-31-00, 12-16-08, 8-10-14, 7-1-18, 12-8-21, _____.*

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

2 (1) As an alternative to a staff assisted rate case as described in Rule 25-30.455, F.A.C., or to
3 staff assistance in alternative rate setting as described in Rule 25-30.456, F.A.C., water
4 utilities whose total gross annual operating revenues are \$335,000 ~~\$300,000~~ or less for water
5 service and wastewater utilities whose total gross annual operating revenues are \$335,000
6 ~~\$300,000~~ or less for wastewater service may file with the Office of Commission Clerk an
7 application for a limited alternative rate increase of up to 20 percent applied to metered or flat
8 recurring rates of all classes of service.

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

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

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

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

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

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

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

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

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

24 (i) A statement that the figures and calculations upon which the change in rates is based are
25 accurate and that the change will not cause the utility to exceed its last authorized rate of

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1 return on equity;

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

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

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

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

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

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

21 (5) A financial or engineering audit of the utility's financial or engineering books and records
22 will not be required in determining whether to approve or deny the application.

23 (6) Based upon the criteria contained in subsection (2), the Commission will approve, deny, or
24 approve the application with modifications that may include a reduction or an increase in the
25 requested rate increase, within 90 days from the official filing date as established in subsection

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1 (4) of this rule.

2 (7) Any revenue increase granted under the provisions of this rule shall be held subject to
3 refund with interest in accordance with subsection 25-30.360(4), F.A.C. Subsection 25-
4 30.360(6), F.A.C., does not apply to any money collected subject to refund under this
5 subsection.

6 (8) The Commission staff will conduct an earnings review of the twelve-month period
7 following the implementation of the revenue increase.

8 (a) At the end of the twelve-month period, the utility has 90 days to complete and file Form
9 PSC 1025 (03/20), entitled “Limited Alternative Rate Increase Earnings Review,” which is
10 incorporated into this rule by reference and is available at
11 <http://www.flrules.org/Gateway/reference.asp?No=Ref-11955>.

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

17 (c) If the Commission staff’s earnings review demonstrates that the utility exceeded the range
18 of its last authorized rate of return on equity, such overearnings, up to the amount held subject
19 to refund, with interest, shall be disposed of for the benefit of the customers. If the
20 Commission staff determines that the utility did not exceed the range of its last authorized
21 return on equity, the revenue increase will no longer be held subject to refund.

22 (9) In the event the proposed agency action order is protested pursuant to Rule 28-106.111,
23 F.A.C., by a substantially affected person other than the utility, the utility must file a staff
24 assisted rate case application pursuant to Rule 25-30.455, F.A.C., within 21 days from the date
25 the protest is filed or the utility’s application for a limited alternative rate increase will be

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1 deemed withdrawn.

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

4 (a) The utility may implement the rates established in the proposed agency action order on a
5 temporary basis subject to refund with interest in accordance with Rule 25-30.360, F.A.C.:

6 (b) The limit on the maximum increase provided in subsection (1) of this rule will no longer
7 apply; and

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

9 *Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS.*
10 *History—New 3-15-05, Amended 12-16-08, 8-10-14, 7-1-18, 6-2-20, _____.*

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

DATE: February 24, 2023

TO: Susan Sapoznikoff, Senior Attorney, Office of the General Counsel

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

RE: Statement of Estimated Regulatory Costs for Proposed Amendment of Rules 25-30.455, 25-30.456, and 25-30.457, Florida Administrative Code (F.A.C.)

Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., applicable to water and wastewater utilities, are being amended to increase the upper threshold for eligibility for staff assistance in rate case applications. Specifically, the recommended revisions update adjustments to the gross annual revenue level required by Section 367.0814(1), Florida Statutes (F.S.). The referenced statute requires that the gross annual revenue threshold level be adjusted on July 1, 2013, and every five years thereafter, based on the most recent cumulative five years of the price index established by the Commission pursuant to Section 367.081(4)(a), F.S.

Rule 25-30.455, F.A.C., Staff Assistance in Rate Cases, defines the eligibility requirements for a water or wastewater utility to qualify for a Staff Assisted Rate Case (SARC). The recommended rule revisions increase the upper threshold of total gross annual operating revenues from \$300,000 to \$335,000 or less for water or wastewater utilities, or from \$600,000 to \$670,000 or less on a combined basis.

Rule 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting, defines the eligibility requirements for a water or wastewater utility to qualify for staff assistance in alternative rate setting. The alternative rate setting process is less detailed than that conducted for a SARC and limits the maximum increase in operating revenues to 50 percent of test year operating revenues. The recommended rule revisions increase the upper threshold of total gross annual operating revenues from \$300,000 to \$335,000 or less for water or wastewater utilities, or from \$600,000 to \$670,000 or less on a combined basis.

Rule 25-30.457, F.A.C., Limited Alternative Rate Increase, allows for a limited alternative procedure to a SARC. This procedure is less detailed than that conducted for a SARC and may allow for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service. The recommended rule revisions increase the upper threshold of total gross annual operating revenues from \$300,000 to \$335,000 or less for water or wastewater utilities, or from \$600,000 to \$670,000 or less on a combined basis.

The utilities affected by the recommended rule revisions potentially may achieve cost savings as a result of lower rate case expenses. No workshop was requested in conjunction with the

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recommended rule revisions. No regulatory alternatives were submitted pursuant to Section 120.541(2)(g), F.S. None of the impact/cost criteria established in Sections 120.541(2)(a), (c), (d), and (e), F.S., will be exceeded as a result of the recommended revisions.

cc: SERC file

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rule 25-30.455, F.A.C., Staff Assistance in Rate Cases; Rule 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting; and Rule 25-30.457, F.A.C., Limited Alternative Rate Increase.

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: Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., applicable to water and wastewater utilities, are being amended to increase the upper threshold for eligibility for staff assistance in rate case applications. The recommended revisions would benefit the qualifying utilities. There are no anticipated new costs to the utilities as a result of the recommended rule revisions.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

The amended rule will apply to approximately 83 water utilities and 58 wastewater utilities that qualify for staff assisted rate cases.

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

The affected individuals would be the customers of the above stated 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.

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.