

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: May 31, 2023
TO: Adam Tietzman, Commission Clerk
FROM: Susan Sapoznikoff, Office of the General Counsel *SS*
RE: Docket No. 20230025-WS

Please place the attached documents into Docket No. 20230025-WS [Rule 25-30.455, F.A.C. *et al*]

Please contact me at Susan.Sapoznikoff@psc.state.fl.us if you have any questions.

Thank you.

SS



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

May 30, 2023

Susan Sapoznikoff
Senior Attorney
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Dear Susan Sapoznikoff:

Your adoption package for Rules 25-30.455, .456, and .457, F.A.C. was received, electronically, by the Florida Department of State, Administrative Code and Register at 3:30 p.m. on May 30, 2023. After review, it appears that the package meets statutory requirements and those of Rule 1-1.010, F.A.C. and is deemed filed for adoption at the time received, as indicated above. The effective date is July 1, 2023.

Sincerely,

Anya C. Owens
Administrative Code and Register Director

Owens, Anya C.

From: Susan Sapoznikoff <SSapozni@psc.state.fl.us>
Sent: Tuesday, May 30, 2023 3:30 PM
To: RuleAdoptions
Subject: RE: Updated Adoption packet for Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C.
Attachments: 20230025 DOS Certification Packet combined.pdf; 1- 25-30.455 - T&S.doc; 1- 25-30.456 - T&S.doc; 1- 25-30.457 - T&S.doc

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Good afternoon:

I have attached the updated rule certification packet for Rules 25-30.455, 20-30.456, and 25-30.457, F.A.C., with the PDF attachment of the entire packet, along with the Word versions of the coded text of the rules. I await your email confirming receipt.

These rules are to be effective on July 1, 2023, pursuant to Section 367.0814(1), F.S.

Please contact me with any questions or concerns.

With best regards,

Suzie

Susan Sapoznikoff
Senior Attorney
Appeals, Rules & Ethics Section
Office of the General Counsel
Florida Public Service Commission
(850)-413-6630
Susan.Sapoznikoff@psc.state.fl.us



PLEASE NOTE: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message may be subject to public disclosure.

 Please consider the environment before printing this e-mail

KATHLEEN PASSIDOMO
President



PAUL RENNER
Speaker



THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

Representative Tobin Rogers "Toby" Overdorf, Chair
Senator Blaise Ingoglia, Vice Chair
Senator Colleen Burton
Senator Erin Grall
Senator Rosalind Osgood
Senator Darryl Ervin Rouson
Representative Shane G. Abbott
Representative Kimberly Berfield
Representative Jervonte "Tae" Edmonds
Representative Alina Garcia
Representative Yvonne Hayes Hinson

KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

CERTIFICATION

Department: Public Service Commission
Agency:
Rule No(s): 25-30.455, .456, .457
File Control No: 189861

As required by subparagraph 120.54(3)(e)4 F.S., the Joint Administrative Procedures Committee hereby certifies that:

- There were no material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rule; or
- The adopting agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rules; or
- The adopting agency has not responded in writing to all material and timely written comments or written inquiries made on behalf of the Committee regarding the above listed rules.

Certification Date: 5/30/2023

This certification expires after: 6/6/2023

Certifying Attorney: Jamie Jackson

NOTE:

- The above certified rules include materials incorporated by reference.*
- The above certified rules do not include materials incorporated by reference.*

COMMISSIONERS:
ANDREW GILES FAY, CHAIRMAN
ART GRAHAM
GARY F. CLARK
MIKE LA ROSA
GABRIELLA PASSIDOMO

STATE OF FLORIDA



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

Public Service Commission

May 30, 2023

Ms. Anya C. Owens
Florida Department of State
Administrative Code and Register Section
Room 701, the Capitol
Tallahassee, FL 32399-0250
RuleAdoptions@DOS.MyFlorida.com

Via E-Mail

Re: Rule Certification Packet for Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C.

Dear Ms. Owens:

Enclosed for filing is a complete rule certification packet for Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., consisting of:

- (1) One copy of the coded text of the rule in Word version;
- (2) There are no materials incorporated by reference into these rules.
- (3) One copy of the signed rule certification form;
- (4) One copy of the signed designation of minor violation rule certification form required by Rule 1-1.010, F.A.C.;
- (5) One copy of the coded text of the rule, including the legal citations and history notes;
- (6) One copy of the summary of the rule;
- (7) One copy of the detailed written statement of the facts and circumstances justifying the rule; and
- (8) One copy of the summary of the hearings held on the rule.

These rules are to be effective on July 1, 2023, pursuant to section 367.0814(1), Florida Statutes.

I am the contact for this rule. Please let me know if you have any questions. I may be reached at the Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0250. My telephone number is (850) 413-6630. My email address is Susan.Sapoznikoff@psc.state.fl.us.

Sincerely,

/s/ Susan Sapoznikoff

Susan Sapoznikoff
Senior Attorney

Enclosures

cc: Office of the Commission Clerk (**Docket No. 20230025-WS**)

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the ombudsman in the Executive Office of the Governor.

The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Nos.

25-30.455	
25-30.456	
25-30.457	

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective Date: July 1, 2023



Signature, Person Authorized to Certify Rules

Commission Clerk

Title

 6
Number of Pages Certified

**DESIGNATION OF RULES THE VIOLATION OF WHICH IS A MINOR VIOLATION
CERTIFICATION**

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule Nos.

25-30.455

25-30.456

25-30.457

Rules covered by this certification:

Rule Nos.

25-30.455

25-30.456

25-30.457



Signature of Agency Head

Chairman, Florida Public Service Commission

Title

SUMMARY OF THE RULES

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.

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULES

Section 367.0814(1), Florida Statutes, 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), Florida Statutes. Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., are being amended to comply with the statutory mandate of Section 367.0814(1), Florida Statutes.

In accordance with that statute, the amendments to the rules provide that the gross annual operating revenue eligibility limits are increased 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. The adjustment amounts are based on the application of the five-year cumulative index (12.15 percent) established by the Commission pursuant to Section 367.081(4), Florida Statutes. When applied, the five-year cumulative index increases the estimated gross annual revenue limit level by \$35,000.

Pursuant to Section 367.0814(1), Florida Statutes, the amended rules need to be effective on July 1, 2023.

SUMMARY OF ANY HEARINGS HELD ON THE RULES

No timely request for a hearing was received by the Commission and no hearing was held.

25-30.455 Staff Assistance in Rate Cases.

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

(a) through (c) No change

(2) through (13) No change

Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History—New 12-8-80, Formerly 25-10.180, Amended 11-10-86, 8-26-91, 11-30-93, 1-31-00, 12-16-08, 8-10-14, 2-19-17, 7-1-18, 12-8-21, 7-1-23.

25-30.456 Staff Assistance in Alternative Rate Setting.

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

(a) through (c) No change.

(2) through (18) No change.

Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History—New 11-30-93, Amended 1-31-00, 12-16-08, 8-10-14, 7-1-18, 12-8-21, 7-1-23.

25-30.457 Limited Alternative Rate Increase.

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

(2) through (10) No change.

Rulemaking Authority 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, 6-2-20, 7-1-23.