

Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.
420 South Orange Avenue, Suite 700
P.O. Box 2346 (ZIP 32802-2346)
Orlando, FL 32801

(407) 841-1200
(407) 423-1831 Fax
www.deanmead.com

Attorneys and Counselors at Law
Orlando
Fort Pierce
Tallahassee
Viera/Melbourne
Vero Beach
Stuart (By Appointment)

MARTIN FRIEDMAN
407-310-2077
mfriedman@deanmead.com

November 30, 2023
via efilng

Adam Teitzman, Commission Clerk
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 20230123-WS: In re: Proposed Rule 25-30.0372, F.A.C., Alternative
Procedure for Establishing Rate Base Value of Acquired Utility System

Dear Mr. Teitzman:

Attached are the post-workshop comments of Sunshine Water Services to the staff's proposed Rule 25-30.0372, F.A.C., along with Sunshine Water Services red-lined redraft of the Rule. We look forward to continuing to work with the staff to implement Section 367.0811, Florida Statutes, in accordance with the Statutes' intent.

Should you or Staff have any questions regarding these comments please do not hesitate to contact me.

Very truly yours,

/s/ Martin S. Friedman
Martin Friedman

MSF:

SUNSHINE WATER SERVICES' POST-WORKSHOP
COMMENTS ON DRAFT ALTERNATIVE RATE BASE
VALUE RULE

Sunshine Water Services (“SWS”) appreciates the Staff’s efforts in the rulemaking to implement the recently enacted Alternative Rate Base Value Legislation (“ARBV”) (codified as Section 367.0811, Florida Statutes). The Staff’s explanations, as well as comments from other interested parties at the workshop, were helpful in furthering the discussion. Below are our comments, and attached is the proposed Rule in underline and strike-through format.

(3)(a) – this provision **requires** the engineering assessment to “include impacts on the quality of product.” This additional requirement improperly exceeds the requirements set forth in the statute. An engineering assessment involves the evaluation of the condition of a system’s assets, not predicting the impacts or analyzing water or effluent quality. The purpose of an engineering assessment in this context is to produce an objective summary of the variety, scope, and age of the system’s assets so the appraisers have a sound, consistent foundation upon which to prepare their analysis. This heightened standard of evaluation also may exceed the qualifications or resources of the engineer performing the assessment, adding materially to the cost and time to perform the analysis. Typically, the quality-of-service is usually addressed in the transfer proceeding through production of water quality reports or similar records. It is also unclear how a utility system appraiser would account for such information in the common valuation methods (cost, market, income).

SWS recommends revising this provision, as the cross-referenced 367.0811(4)(b) does not require any scope of the engineering assessment beyond “an assessment of the tangible assets of the utility system being acquired.” Virtually all other jurisdictions with similar statutes and rules require an engineering assessment, and descriptions of the assessment are consistently limited to such a scope – the engineer will assess the tangible assets of the utility system in question, and not opine on water quality or otherwise assess the “output” of the system. There is no mention of analysis of quality of service, water quality, or other such criteria. SWS recommends the provision be modified to explain that the assessment should include a summary of DEP NOVs and responses by the utility and the most recent DEP inspection report.

(4)(a) - this provision seems to require that the Petition be filed after approval of the transfer, and not as a part of the transfer application, or simultaneously with the transfer application. Filing simultaneously will allow for regulatory efficiency, timely completion of sale, and most comprehensively resolve issues related to the transfer. There are commonly situations where the purchase will be contingent upon approval of an alternative rate base valuation. In addition, it should be made clear in this provision that determination of completeness of the application, and thus the “start of the clock” for the 8-month period to receive a final order, requires

the “clock” start at “the date the complete petition is filed”, as stated in (6)(a) of the Statute and not some future arbitrary date when the staff get around to notifying the utility that its Petition is complete. Using the notice of completion date instead of the Petition completion date solely to obtain extra time is inappropriate, and contrary to the Statute’s direct language. In a transfer proceeding, determination of net book value is generally the most time-consuming issue and is more efficiently addressed simultaneously with a request for an ARBV. If a full acquisition adjustment filing can be completed in five months, and a fully litigated rate case in eight months, certainly this proceeding could be done in eight months from filing the Petition. The process used here should be consistent with that used in rate cases for determining the official date of filing.

(4)(b) – the required use of the CPVRR restricts the Commission’s flexibility to address the nuances of particular situations as not all acquisitions will be identical. Contrast this language and requirement with the draft revisions to the Acquisition Adjustment Rule that has the CPVRR as an option and not a requirement. SWS recommends similar language and flexibility be adopted here, as the context is similar.

(4)(e) – the definition of “significant individual increase in rates” being tied to the price index is not practical. There are many factors potentially driving whether the 5-year projected rate impact period may exceed current rates, such as time since the last late case, whether significant capital investment is needed for proper service, rate consolidation strategies, and whether the selling utility afforded itself of index and pass-through rate increases. Virtually every purchase would meet this threshold, and the index could conceivably be vanishingly small or even negative. SWS suggests that the OPC comment and definition of “rate shock” of 1.5 times existing rates be adopted as that threshold. Thus, SWS recommends that the utility be allowed to propose a rate stabilization plan due to “significant individual increase in rates” if the rate increase over the projected rate impact period exceeds 1.5 times the seller’s current rates. This allows some room for needed investments to be made and recovered in the short term, or relatively closely aligned rate groups to be consolidated.

1 **25-30.0372 Alternative Procedure for Establishing Rate Base Value of Acquired**
2 **Utility System.**

3 (1) Definitions. For the purposes of this rule, the following definitions apply:

4 (a) “Licensed Appraiser,” as referenced in Section 367.0811(4)(a), F.S., means a person
5 who meets all the following criteria:

6 1. Has certification as an Accredited Senior Appraiser by the American Society of
7 Appraisers, designation as a Certified Valuation Analyst by the National Association of
8 Certified Valuators and Analysts, or designation as a Member of the Appraisal Institute by the
9 Appraisal Institute; and

10 2. Has a current license in good standing from any state as an appraiser, engineer, or
11 certified public accountant.

12 ~~(b) “Price Index” means the most recent annual price increase or decrease index of major~~
13 ~~categories of operating costs incurred by water and wastewater utilities established by the~~
14 ~~Commission by order entered pursuant to Section 367.081(4)(a), F.S.~~

15 (2) Appraisals.

16 (a) Each appraisal must assess the value of the utility system being acquired according to
17 its intended use.

18 (b) The acquiring utility will select one licensed appraiser, the utility being acquired will
19 select one licensed appraiser, and those two utilities will jointly select the third licensed
20 appraiser.

21 (c) The list of licensed appraisers required by Section 367.0811(4)(a), F.S., can be found at
22 www.floridapsc.com/appraiserlist or obtained from the Office of the Commission Clerk,
23 Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida
24 32399-0850.

25 (d) A licensed appraiser will be included on the Commission’s list of approved licensed
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions
from existing law.

1 appraisers by submitting all of the following to appraiserlist@psc.state.fl.us or the Office of the
2 Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard,
3 Tallahassee, FL 32399-0850:

- 4 1. The licensed appraiser's name, mailing address, telephone number, and email address;
- 5 2. The name of any company with which the licensed appraiser is employed or associated;
- 6 and
- 7 3. Proof of the information required by paragraph (1)(a) above.

8 (e) It is the responsibility of the licensed appraiser to ensure that correct and updated
9 information remains on file with the Commission. The licensed appraiser must submit updated
10 information to appraiserlist@psc.state.fl.us within 30 days of any change of information. If the
11 Commission determines that a person no longer meets the requirements to be a licensed
12 appraiser on the Commission's list, that person will be removed from the list. Upon request
13 and upon providing proof that the requirements listed in paragraph (1)(a) above are met, a
14 person will be added back to the list.

15 (f) The licensed appraiser can be removed from the list by submitting a request for
16 removal in writing to appraiserlist@psc.state.fl.us.

17 (3) Engineering Assessment.

18 ~~(a) In assessing the impact on quality of service, the assessment of the tangible assets of~~
19 ~~the utility system being acquired required by Section 367.0811(4)(b), F.S., must include~~
20 ~~impacts to the quality of product.~~

21 (b) The licensed engineer who performs the engineering assessment required by Section
22 367.0811(4)(b), F.S., may not also serve as a licensed appraiser on the same acquisition
23 transaction.

24 (4) Petition. Section 367.0811(5), F.S., sets forth the filing requirements a petition to
25 establish the rate base value must contain.

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from existing law.

1 (a) The petition must be filed concurrent with the transfer application or within 6 months
2 of the issuance of the final order approving the transfer of the certificate(s) of authorization or
3 the closing date of the sale, whichever is later. Commission staff will review the petition and
4 within 30 days of receipt of the petition will notify the acquiring utility whether the petition is
5 complete or identify the information missing from the petition under the requirements of
6 Section 367.0811(5), F.S. The date the petition is complete under Section 367.0811(6), F.S., is
7 the date that ~~Commission staff notifies the acquiring utility that~~ the filed petition meets the
8 filing requirements of Section 367.0811(5), F.S.

9 (b) A cumulative present value of revenue requirements analysis (CPVRR) in the form of
10 a spreadsheet must be included in the petition to show the 5-year projected rate impact
11 required by Section 367.0811(5)(e), F.S. Form PSC XXX (XX/23), entitled “Water and/or
12 Wastewater Cumulative Present Value of the Revenue Requirement for Alternate Rate Base
13 Worksheet” (“~~CPVRR~~”), which is incorporated by reference in this rule and may be obtained
14 from [hyperlink]; ~~must be included in the petition to show the 5-year projected rate impact~~
15 ~~required by Section 367.0811(5)(e), F.S.~~ may be used. The form can also be found at
16 www.floridapsc.com, or obtained from the Office of the Commission Clerk, Florida Public
17 Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

18 (c) The 5-year rate impact required by Section 367.0811(5)(e), F.S., must also include the
19 following for each year for residential and general service customers, and the CPVRR must
20 support the projections for these charges:

- 21 1. Base facility charge,
- 22 2. Gallonage charge, and
- 23 3. Billing determinants.

24 (d) The information filed under Section 367.0811(5)(e), F.S., must include the acquiring
25 utility’s proposed journal entries anticipated to result from the acquisition, including tax
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1 entries and account numbers in conformance with the 1996 NARUC Uniform System of
2 Accounts, which is incorporated by reference in Rule 25-30.115, F.A.C.

3 (e) For purposes of determining whether the petition must include a rate stabilization plan
4 under Section 367.0811(5)(h), F.S., “significant individual increase in rates” means a rate
5 increase during any twelve consecutive months of the 5-year projected rate impact period in
6 excess of ~~price index~~ 1.5 times over the current rates of the utility system being acquired. A
7 copy of the most recent Commission order establishing the price index can be obtained from
8 the Public Service Commission, Division of Accounting & Finance, 2540 Shumard Oak
9 Boulevard, Tallahassee, Florida 32399-0850.

10 *Rulemaking Authority 367.0811(11), FS. Law Implemented 367.0811, FS., History—*
11 *New* _____

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