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STATE OF FLORIDA



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

# Public Service Commission

March 13, 2024

Kenneth J. Plante, Coordinator  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 West Madison Street  
Tallahassee, FL 32399-1400  
japc@leg.state.fl.us

VIA EMAIL

**Re: Docket No.: 20230123-WS; Rule 25-30.0372, F.A.C.**

Dear Mr. Plante:

Enclosed are the following materials concerning the above referenced proposed rule:

1. A copy of the proposed rule.
2. A copy of all materials incorporated by reference in the proposed rules.
3. A copy of the F.A.R. notice.
4. A statement of facts and circumstances justifying the proposed rules.
5. A federal standards statement.
6. Statement of Estimated Regulatory Costs for the rules.

If there are any questions with respect to these rules, please do not hesitate to call me at (850) 413-6630.

Sincerely,

*/s/ Susan Sapoznikoff*  
Susan Sapoznikoff  
Senior Attorney

Enclosures: as noted

cc: Office of Commission Clerk

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

3        (1) Definition. For the purposes of this rule, “Licensed Appraiser,” as referenced in  
4 Section 367.0811(4)(a), F.S., means a person who meets all the following criteria:

5        (a) Has certification as an Accredited Senior Appraiser by the American Society of  
6 Appraisers (ASA), designation as a Certified Valuation Analyst by the National Association of  
7 Certified Valuators and Analysts (NACVA), designation as a Certified Business Appraiser by  
8 the Institute of Business Appraisers (CBA), or designation as Accredited in Business  
9 Valuation by the American Institute of Certified Public Accountants (AICPA), and

10        (b) Is in good standing with the ASA, NACVA, IBA, or AICPA.

11        (2) Appraisals.

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

14        (b) The Executive Director of the Florida Public Service Commission or their designee  
15 will randomly choose the three licensed appraisers from the list of licensed appraisers  
16 referenced in paragraph (2)(d) of this rule using computationally-generated random numbers.

17        (c) The licensed engineer who performs the engineering assessment required by Section  
18 367.0811(4)(b), F.S., may not also serve as a licensed appraiser on the same acquisition  
19 transaction.

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

24        (e) A licensed appraiser will be included on the Commission’s list of approved licensed  
25 appraisers by submitting all of the following to [appraiserlist@psc.state.fl.us](mailto:appraiserlist@psc.state.fl.us) or the Office of

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from existing law.

1 the Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard,  
2 Tallahassee, FL 32399-0850:

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

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

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

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

18 (a) The petition may be filed concurrent with the application to transfer the certificate(s) of  
19 authorization, but must be filed no later than 6 months after the issuance of the final order  
20 approving the transfer of the certificate(s) of authorization or the closing date of the sale.  
21 Commission staff will review the petition and within 30 days of receipt of the petition will  
22 notify the acquiring utility whether the petition is complete or identify the information  
23 required by Section 367.0811(5), F.S., which is missing from the petition. If an amended  
24 petition is filed, Commission staff will review the amended petition and within 30 days of  
25 receipt of the amended petition will notify the acquiring utility whether the amended petition

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1 is complete or identify the information required by Section 367.0811(5), F.S., which is  
2 missing from the amended petition. This process will continue until Commission staff  
3 determines the petition satisfies the requirements of Section 367.0811(5), F.S. The date a  
4 petition is complete under Section 367.0811(6), F.S., is the date that all documents required by  
5 Section 367.0811(6), F.S. have been filed.

6 (b) If the assessment of tangible assets required by Section 367.0811(4)(b), F.S., identifies  
7 deficiencies, the 3-year plan required by Section 367.0811(5)(d), F.S., must include the  
8 following, if existing, regarding the system being acquired:

9 1. A copy of the most recent DEP and/or county health department sanitary survey,  
10 compliance inspection report, primary and secondary standards drinking water report; and

11 2. A copy of all correspondence with the DEP, county health department, and water  
12 management district, including consent orders and warning letters, and the utility's responses  
13 to the same, for the past five years.

14 (c) Form PSC 1035 (03/24), entitled "Water and/or Wastewater Cumulative Present Value  
15 of the Revenue Requirement for Alternate Rate Base Worksheet" (CPVRR), which is  
16 incorporated by reference in this rule and may be obtained from [hyperlink], must be included  
17 in the petition to show the 5-year projected rate impact required by Section 367.0811(5)(e),  
18 F.S. The form can also be found at [www.floridapsc.com](http://www.floridapsc.com), or obtained from the Office of the  
19 Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard,  
20 Tallahassee, Florida 32399-0850.

21 (d) The 5-year rate impact required by Section 367.0811(5)(e), F.S., must also include the  
22 following for each year for residential and general service customers, and the CPVRR must  
23 support the projections for the following:

24 1. Base facility charge,

25 2. Gallonage charge, and

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1     3. Billing determinants.

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

6     (f) For purposes of determining whether the petition must include a rate stabilization plan  
7 under Section 367.0811(5)(h), F.S., "significant individual increase in rates" means a rate  
8 increase during any twelve consecutive months of the 5-year projected rate impact period that  
9 is in excess of 15 percent over the current rates of the utility system being acquired.

10     (4) General filing instruction. Prepared direct testimony and exhibits for each witness  
11 testifying on behalf of the acquiring utility must be filed at the time the petition is filed.

12     (5) Notice. At the time the petition is filed with the Commission, the acquiring utility must  
13 provide a draft notice for review by Commission staff. Commission staff will review the draft  
14 notice within 7 days. Once staff has approved the notice, the acquiring utility must provide  
15 notice by regular mail to the Office of Public Counsel and by regular mail or personal service  
16 to each customer and owner of property located within the service area for both the acquiring  
17 utility and the utility being acquired, to the extent the utilities' customers are within the  
18 Commission's jurisdiction. The notice required by this rule may be combined with the notice  
19 of Application for Authority to Transfer issued pursuant to Rule 25-30.030, F.A.C., or for  
20 existing customers, the notice may be included in their next bill. The notice must contain:

21     (a) Title: Notice of Utility's Petition to Establish Rate Base Value Using Alternative  
22 Procedure;

23     (b) A statement that the utility has filed a petition with the Commission to establish rate  
24 base value of acquired utility system using the alternative procedure set forth in Section  
25 367.0811, F.S.;

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- 1     (c) The date the petition was filed with the Commission;  
2     (d) The docket number associated with the petition;  
3     (e) A statement of the 5-year projected rate impact or the anticipated effect of the  
4     requested rate base on rates for the next five years;  
5     (f) A statement that the utility’s petition is available on the Commission’s website;  
6     (g) The acquiring utility’s address, telephone number, and business hours; and  
7     (h) A statement that any customer substantially affected by the petition may file a motion  
8     to intervene in accordance with Rule 28-106.205, F.A.C.

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

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WATER AND/OR WASTEWATER CUMULATIVE PRESENT VALUE OF THE REVENUE REQUIREMENTS  
FOR ALTERNATE RATE BASE WORKSHEET

Discount Rate / WACC	0.00%		Acquired Utility						
Start Date									
Acquisition Date									
	<u>Escalation</u>	<u>Beginning</u>							
	<u>Rate</u>	<u>Cost</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Nominal Total</u>	<u>5-year CPVRR</u>
Discount Rate			1.00000	1.00000	1.00000	1.00000	1.00000		
<b>Revenue Requirements</b>									
Operations and Maintenance <sup>1</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Depreciation and Amortization <sup>2</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Taxes Other Than Income	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Interest Expense <sup>3</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Return on Equity <sup>4</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Income Tax <sup>5</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
System Impact <sup>6</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Revenue Requirements</b>		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
(Revenue from Customers) <sup>7</sup>		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Customer (Savings)/Cost<sup>8</sup></b>		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Cost Adjustments - Acquired Utility					
Year 1	Year 2	Year 3	Year 4	Year 5	
\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0

Discount Rate / WACC	0.00%		Acquiring Utility						
Start Date									
Acquisition Date									
	<u>Escalation</u>	<u>Beginning</u>							
	<u>Rate</u>	<u>Cost</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>	<u>Nominal Total</u>	<u>5-year CPVRR</u>
Discount Rate			1.00000	1.00000	1.00000	1.00000	1.00000		
<b>Revenue Requirements</b>									
Operations and Maintenance <sup>1</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Depreciation and Amortization <sup>2</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Taxes Other Than Income	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Interest Expense <sup>3</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Return on Equity <sup>4</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Income Tax <sup>5</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
System Impact <sup>6</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Acquisition Cost <sup>7</sup>	0.00%	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total Revenue Requirements</b>		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
(Revenue from Customers) <sup>8</sup>		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>Net Customer (Savings)/Cost<sup>9</sup></b>		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

Cost Adjustments - Acquiring Utility					
Year 1	Year 2	Year 3	Year 4	Year 5	
\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$0	\$0	\$0	\$0	\$0

<b>Combined Net Customer (Savings)/Cost</b>	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
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<sup>1</sup>Represents estimated Operations and Maintenance Expense for operating the system.  
<sup>2</sup>Depreciation and Amortization Expense associated with the assets and system capital expenditures.  
<sup>3</sup>Interest expense assumes weighted cost of debt and debt-to-investor capital ratio excluding any interest expense (if applicable) related to the acquisition.  
<sup>4</sup>Return on equity assumes cost of equity and equity-to-investor capital ratio excluding any return (if applicable) related to the acquisition.  
<sup>5</sup>Income tax assumes blended state and federal tax rate.  
<sup>6</sup>Fixed costs and capital needed to serve the system.  
<sup>7</sup>Capital costs related to the acquisition.  
<sup>8</sup>Revenue from customers at forecasted rates.  
<sup>9</sup>Revenue requirements netted against revenue from customers

## Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-30.0372 Alternative Procedure for Establishing Rate Base Value of Acquired Utility System

PURPOSE AND EFFECT: Docket 20230123-WS

To implement newly enacted Section 367.0811, F.S., which was passed by the Florida Legislature in the 2023 session. Section 367.0811, F.S. creates an alternative procedure to establish the rate base value of an acquired water and/or wastewater utility system

SUMMARY: Rule 25-30.0372, F.A.C., is a new rule to implement Section 367.0811, F.S., which was adopted by the Florida legislature in 2023. The rule clarifies ambiguous terms in the statute and sets forth the procedures for handling the petition to establish the rate base value before the Commission. The rule also contains general filing instructions and notice requirements to provide due process and assist in the efficient implementation of the statute. The rule incorporates a new form (PSC 1035 03/24) to reflect information required by the statute regarding the 5-year projected rate impact

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 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. The proposed rule would have no impact on small business, would have no implementation cost to the Commission or other state and local government entities, and would have no impact on small cities or counties. The agency has determined that the proposed rule is 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

The Agency has determined that the proposed rule is 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:

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: 367.0811(11), F.S.

LAW IMPLEMENTED: 367.0811, F.S.

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: Susan Sapoznikoff, Office of General Counsel, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, (850) 413-6630, Susan.Sapoznikoff@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

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

**(1) Definition. For the purposes of this rule, "Licensed Appraiser," as referenced in Section 367.0811(4)(a), F.S., means a person who meets all the following criteria:**

**(a) Has certification as an Accredited Senior Appraiser by the American Society of Appraisers (ASA), designation as a Certified Valuation Analyst by the National Association of Certified Valuators and Analysts (NACVA), designation as a Certified Business Appraiser by the Institute of Business Appraisers (CBA), or designation as Accredited in Business Valuation by the American Institute of Certified Public Accountants (AICPA), and**



(b) Is in good standing with the ASA, NACVA, IBA, or AICPA.

(2) Appraisals.

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

(b) The Executive Director of the Florida Public Service Commission or their designee will randomly choose the three licensed appraisers from the list of licensed appraisers referenced in paragraph (2)(d) of this rule using computationally-generated random numbers.

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

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

(e) A licensed appraiser will be included on the Commission's list of approved licensed appraisers by submitting all of the following to [appraiserlist@psc.state.fl.us](mailto:appraiserlist@psc.state.fl.us) or the Office of the Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850:

1. The licensed appraiser's name, mailing address, telephone number, and email address;

2. The name of any company with which the licensed appraiser is employed or associated; and

3. Proof of the information required by subsection (1) above.

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

(g) The licensed appraiser can be removed from the list by submitting a request for removal in writing to [appraiserlist@psc.state.fl.us](mailto:appraiserlist@psc.state.fl.us).

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

(a) The petition may be filed concurrent with the application to transfer the certificate(s) of authorization, but must be filed no later than 6 months after the issuance of the final order approving the transfer of the certificate(s) of authorization or the closing date of the sale. Commission staff will review the petition and within 30 days of receipt of the petition will notify the acquiring utility whether the petition is complete or identify the information required by Section 367.0811(5), F.S., which is missing from the petition. If an amended petition is filed, Commission staff will review the amended petition and within 30 days of receipt of the amended petition will notify the acquiring utility whether the amended petition is complete or identify the information required by Section 367.0811(5), F.S., which is missing from the amended petition. This process will continue until Commission staff determines the petition satisfies the requirements of Section 367.0811(5), F.S. The date a petition is complete under Section 367.0811(6), F.S., is the date that all documents required by Section 367.0811(6), F.S. have been filed.

(b) If the assessment of tangible assets required by Section 367.0811(4)(b), F.S., identifies deficiencies, the 3-year plan required by Section 367.0811(5)(d), F.S., must include the following, if existing, regarding the system being acquired:

1. A copy of the most recent DEP and/or county health department sanitary survey, compliance inspection report, primary and secondary standards drinking water report; and

2. A copy of all correspondence with the DEP, county health department, and water management district, including consent orders and warning letters, and the utility's responses to the same, for the past five years.

(c) Form PSC 1035 (03/24), entitled "Water and/or Wastewater Cumulative Present Value of the Revenue Requirement for Alternate Rate Base Worksheet" (CPVRR), which is incorporated by reference in this rule and may be obtained from [hyperlink], must be included in the petition to show the 5-year projected rate impact required by Section 367.0811(5)(e), F.S. The form can also be found at [www.floridapsc.com](http://www.floridapsc.com), or obtained from the Office of the Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

(d) The 5-year rate impact required by Section 367.0811(5)(e), F.S., must also include the following for each

year for residential and general service customers, and the CPVRR must support the projections for the following:

1. Base facility charge,
2. Gallonage charge, and
3. Billing determinants.

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

(f) For purposes of determining whether the petition must include a rate stabilization plan under Section 367.0811(5)(h), F.S., "significant individual increase in rates" means a rate increase during any twelve consecutive months of the 5-year projected rate impact period that is in excess of 15 percent over the current rates of the utility system being acquired.

(4) General filing instruction. Prepared direct testimony and exhibits for each witness testifying on behalf of the acquiring utility must be filed at the time the petition is filed.

(5) Notice. At the time the petition is filed with the Commission, the acquiring utility must provide a draft notice for review by Commission staff. Commission staff will review the draft notice within 7 days. Once staff has approved the notice, the acquiring utility must provide notice by regular mail to the Office of Public Counsel and by regular mail or personal service to each customer and owner of property located within the service area for both the acquiring utility and the utility being acquired, to the extent the utilities' customers are within the Commission's jurisdiction. The notice required by this rule may be combined with the notice of Application for Authority to Transfer issued pursuant to Rule 25-30.030, F.A.C., or for existing customers, the notice may be included in their next bill. The notice must contain:

(a) Title: Notice of Utility's Petition to Establish Rate Base Value Using Alternative Procedure;

(b) A statement that the utility has filed a petition with the Commission to establish rate base value of acquired utility system using the alternative procedure set forth in Section 367.0811, F.S.;

(c) The date the petition was filed with the Commission;

(d) The docket number associated with the petition;

(e) A statement of the 5-year projected rate impact or the anticipated effect of the requested rate base on rates for the next five years;

(f) A statement that the utility's petition is available on the Commission's website;

(g) The acquiring utility's address, telephone number, and business hours; and

(h) A statement that any customer substantially affected by the petition may file a motion to intervene in accordance with Rule 28-106.205, F.A.C.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Cicchetti

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 05, 2024

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 49, Number 211, Oct. 30, 2023

Rule 25-30.0372, F.A.C.  
Docket No.: 20230123-WS

STATEMENT OF FACTS AND CIRCUMSTANCES  
JUSTIFYING RULE

The rule is to implement Section 367.0811, F.S., which was passed by the 2023 Florida Legislature. The rule clarifies ambiguous terms in the statute and sets forth the procedures for handling the petition to establish the alternative rate base value before the Commission. The rule also contains general filing instructions and notice requirements to provide due process and assist in the efficient implementation of the statute.

STATEMENT ON FEDERAL STANDARDS

There are no federal standards for these rules.

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:** February 14, 2024

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

**FROM:** Sevini Guffey, Utility Analyst IV, Division of Economics *SKG*

**RE:** **Statement of Estimated Regulatory Costs** Docket No. 20230123-WS, Proposed Rule 25-30.0372, Florida Administrative Code, Alternative Procedure for Establishing Rate Base Value of Acquired Utility System.

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The purpose of this rulemaking initiative is to implement newly enacted Section 367.0811, Florida Statutes (F.S.), which was passed by the Florida Legislature in the 2023 session. Section 367.0811, F.S. creates an alternative procedure for establishing rate base value of an acquired water and/or wastewater utility system.

Staff held a noticed rule development workshop on November 14, 2023. Prior to the workshop, Sunshine Water Services (Sunshine) submitted pre-workshop comments. Representatives of the Office of Public Counsel (OPC), Sunshine, American Water, U.S. Water Services Corporation (U.S. Water), Southwest Florida Company and Florida Utilities, Central States Water Systems, and CSWR-Florida (CSWR) attended the workshop. U.S. Water, OPC, CSWR, and Sunshine submitted post-workshop comments. The proposed rule was revised taking into consideration stakeholder's comments.

Staff issued a SERC data request on January 23, 2024, to stakeholders that participated in the workshop and to Peoples Water Company, whom staff believes would qualify for the alternative procedure under the statute. The purpose of the request was to assess and consider the fiscal impacts of the proposed new rule. Responses to staff's data requests were due February 2, 2024. The responses have been evaluated during the preparation of this Statement of Estimated Regulatory Costs (SERC). The SERC addresses economic impacts and considerations required pursuant to Section 120.541, F.S.

In response to staff's data request, Sunshine indicated that staff's proposed definition of "licensed appraiser" in Rule 25-30.0372(1)(a), F.A.C., did not create any additional costs than would otherwise be incurred under the statute. Similarly, Sunshine indicated that gathering the documents required by paragraph (3) of the proposed rule would not result in any additional costs. Finally, Sunshine indicated that costs for complying with the notice requirement of paragraph (5) of the draft rule could range from \$9,000 to \$31,000, depending whether or not the notice would be combined with the notice regarding the application of transfer, as allowed for by the rule.

Ni Florida, Inc.<sup>1</sup> responded to the SERC data request by stating that the underlying statute for the proposed rule does not apply to it.

No other responses to the data request were received.

The SERC analysis indicates that the rule 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. The proposed rule would have no impact on small business, would have no implementation cost to the Commission or other state and local government entities, and would have no impact on small cities or counties. No regulatory alternatives were submitted pursuant to Section 120.541(1)(g), F.S. The SERC concludes that none of the impacts/cost criteria established in Sections 120.541(2)(a), (c), (d), and (e) F.S., will be exceeded as a result of the proposed rule.

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<sup>1</sup> Ni Florida, Inc. is a subsidiary of Southwest Water Company.

**FLORIDA PUBLIC SERVICE COMMISSION  
STATEMENT OF ESTIMATED REGULATORY COSTS  
Rule 25-30.0372, F.A.C., Alternative Procedure for Establishing Rate Base Value  
of Acquired Utility System**

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:** In response to staff's data request, Sunshine indicated that staff's proposed definition of "licensed appraiser" in Rule 25-30.0372(1)(a), F.A.C., did not create any additional costs than would otherwise be incurred under the statute. Similarly, Sunshine indicated that gathering the documents required by paragraph (3) of the proposed rule would not result in any additional costs. Finally, Sunshine indicated that costs for complying with the notice requirement of paragraph (5) of the draft rule could range from \$9,000 to \$31,000, depending whether or not the notice would be combined with the notice regarding the application of transfer, as allowed for by the rule.

Ni Florida, Inc.<sup>1</sup> responded to the SERC data request by stating that the underlying statute for the proposed rule does not apply to it.

No other responses to the data request were received.

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.

To qualify for this new procedure, the transaction must be at arm's length and the acquiring utility must either provide water or wastewater service, or both, to more than 10,000 customers; or be permitted to produce at least 3 million gallons per day of drinking water

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

Utilities that qualify for this new procedure as stated above are affected. Utilities, which come under the jurisdiction of the Commission in the future and qualify, would also be required to comply.

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.

<sup>1</sup> Ni Florida, Inc. is a subsidiary of Southwest Water Company.

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.

Minimal. Provide a brief explanation. In response to staff's data request, Sunshine indicated that staff's proposed definition of "licensed appraiser" in Rule 25-30.0372(1)(a), F.A.C., did not create any additional costs than would otherwise be incurred under the statute. Similarly, Sunshine indicated that gathering the documents required by paragraph (3) of the proposed rule would not result in any additional costs. Finally, Sunshine indicated that costs for complying with the notice requirement of paragraph (5) of the draft rule could range from \$9,000 to \$31,000, depending whether or not the notice would be combined with the notice regarding the application of transfer, as allowed for by the rule.

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.