

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: July 8, 2004

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Office of the General Counsel (Moore, Jaeger)
Division of Economic Regulation (Hewitt, Rendell, Willis)

RE: Docket No. 040246-WS – Proposed adoption of Rule 25-30.457, F.A.C., Limited Alternative Rate Increase, and Rule 25-30.458, F.A.C., Notice of and Public Information for Application for Limited Alternative Rate Increase.

AGENDA: 07/20/04 – Regular Agenda – Rule Proposal – Interested Persons May Participate

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\040246.RCM.DOC

Discussion of Issues

Issue 1: Should the Commission propose the adoption of new rules, Rule 25-30.457, Florida Administrative Code, entitled Limited Alternative Rate Increase, and Rule 25-30.458, Florida Administrative Code, entitled Notice of and Public Information for Application for Limited Alternative Rate Increase?

Recommendation: Yes. (Rendell, C. Moore)

Staff Analysis: Subsection 367.0814(9), Florida Statutes, authorizes the Commission to establish standards and procedures whereby rates and charges of small utilities may be set using criteria other than those set forth in s. 367.081(1), (2)(a), and (3). Pursuant to this authority, staff recommends the Commission propose a rule that provides an alternative to the current staff assisted rate case procedure for water or wastewater utilities with gross annual revenues of \$150,000 or less to obtain a limited amount of rate relief more quickly. (Attachment A.) Providing small utilities with another method to obtain rates that are closer to compensatory

levels may help to mitigate "rate shock," lower rate case expense, and reduce the Commission's labor. Staff believes the result will be less costly regulation.

Under recommended Rule 25-30.457, F.A.C., Limited Alternative Rate Increase, any revenue increase will be limited to a maximum of 20 percent and will be held subject to refund for 15 months after the utility files its annual report for the year the rate adjustment was implemented. Commission staff will not be required to audit the utility's financial or engineering books and records; however, it will follow the current practice of conducting an earnings review of each annual report. The rule requires Commission staff to evaluate the application and determine the petitioner's eligibility for this type of proceeding within 30 days of receipt of a completed application. The official date of filing is 30 days after official acceptance and the rule requires the Commission to act on a recommendation establishing rates no later than 90 days after the official date of filing.

Subsection (1) of the recommended rule authorizes certain small water and wastewater utilities to request a limited rate increase if they submit an application including the information required by subsections (9) and (10) of the rule. That information includes: 1) basic identification and ownership; 2) annualized revenues by customer class and meter size for the most recent 12-month period; 3) the utility's current and proposed rates for all classes of customers; and 4) a statement that the rate change will not cause the utility to exceed its last authorized rate of return on equity. The petitioner must also pay the staff assisted rate case (SARC) application fee of \$200 to \$1,000 as provided by Rule 25-30.020(2)(f), F.A.C.

Only small utilities that meet the criteria listed in subsection (6) of the rule will qualify for this type of rate case. Those criteria include that the petitioner: 1) has filed annual reports; 2) has paid regulatory assessment fees; 3) has at least one year's experience in utility operation; and 4) has complied with all Commission decisions for two years prior to applying for a limited rate increase. The utility must not have been granted a SARC within two years prior to applying for the limited increase nor granted a limited increase under this rule within the prior three years; must be in compliance with water management district permit conditions concerning rate structure; and must—within the seven-year period prior to the receipt of the application under review—have had a final order issued in a rate proceeding that established the utility's rate base, capital structure, annual operating expenses and revenues.

In the event a protest is filed, the utility may implement the new rates on a temporary basis if and when it files a SARC application. If the utility files for a SARC, the 20 percent limit on the maximum increase no longer applies. If it does not file a SARC within 21 days of the protest, however, its application for the limited alternative rate increase is deemed withdrawn.

A rule development workshop was held in Orlando on February 12, 2004. Catherine Walker of the St. Johns River Water Management District and Stephen Reilly of the Office of Public Counsel (OPC) participated and later submitted comments. Also attending were Attorney Martin Friedman, of Rose, Sundstrom & Bentley LLP, and Richard Bair, W.B.B. Utilities, Inc. Jay Yingling of the Southwest Florida Water Management District submitted comments after the workshop. As a result of the comments of the water management districts, a requirement was added for the utility to be in compliance with any applicable water management district permit conditions concerning rate structure.

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Staff also revised Rule 25-30.457 and added a new rule to accommodate several of OPC's concerns. The changes to Rule 25-30.457 include requiring a copy of the utility's petition to be placed in its business office; requiring the petitioner to have filed all annual reports required by Commission rule instead of only the report for the historical test year; and modifying the requirement that there must have been a final order in a rate proceeding issued for the utility within the seven-year period prior to the application to specify that the order must have established the utility's rate base, capital structure, annual operating expenses and revenues. In addition, Rule 25-30.458 was added to respond to OPC's concern that no customer meeting would be held. Commission staff will conduct a customer meeting prior to filing a recommendation on the limited alternative rate increase. Rule 25-30.458 thus requires the utility to send a customer notice prior to the meeting as well as another notice after the issuance of a PAA order granting the rate increase.

Statement of Estimated Regulatory Costs

The recommended rule should make the rate case process more efficient and less time consuming than a SARC and thus less costly for small utilities and their customers. The Commission would benefit from the streamlined rate change process through the reduction of staff duties and costs for travel, meetings, and hearings, enabling staff to handle the Class C utilities' requests for rate increases more expeditiously. Although the total cost savings will depend on the number of rate proceedings conducted under the new rule, the potential estimated savings are discussed in the attached Statement of Estimated Regulatory Costs. (Attachment B.)

Issue 2: Should this docket be closed?

Recommendation: Yes, if no requests for hearing or comments are filed, the rules as proposed should be filed for adoption with the Secretary of State and the docket closed. (C. Moore)

Staff Analysis: Unless comments or requests for hearing are filed, the rules as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

Attachments