

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: October 2, 2008

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Gervasi)
Division of Economic Regulation (Bulecza-Banks, Hewitt, Willis)

RE: Docket No. 080414-WS – Proposed amendment of Rules 25-30.455, F.A.C., Staff Assistance in Rate Cases, 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting, and 25-30.457, F.A.C., Limited Alternative Increase for all water and wastewater utilities.

AGENDA: 10/14/08 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Skop

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\080414.RCM.DOC

Case Background

Rule 25-30.455, Florida Administrative Code (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,” describe the eligibility criteria for water and wastewater utilities to request and receive staff assistance in rate setting, alternative rate setting, and limited alternative rate setting, respectively. The current rules provide that water and wastewater utilities whose total gross annual operating revenues are \$150,000 or less for water service or \$150,000 or less for wastewater service, or \$300,000 or less on a combined basis are eligible for such staff assistance. The purpose of the recommended changes to the rules is to update them to incorporate the recently amended eligibility criteria for such staff assistance as

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specified in Section 367.0184, Florida Statutes (F.S.) (2008). A notice of proposed rule development was published in the June 20, 2008, edition of the Florida Administrative Weekly. No workshop was requested.

This recommendation addresses staff's recommended amendments to Rules 25-30.455, 25-30.456 and 25-30.457, F.A.C., included as Attachment A. The Commission has jurisdiction pursuant to Sections 367.0814 and 367.121, F.S., and rulemaking authority pursuant to Sections 120.54 and 350.127(2), F.S.

Discussion of Issues

Issue 1: Should the Commission propose amendments to Rules 25-30.455, 25-30.456 and 25-30.457, F.A.C.?

Recommendation: Yes. The Commission should propose the amendments to Rules 25-30.455, 25-30.456 and 25-30.457, F.A.C., as set forth in Attachment A.

Staff Analysis: The 2008 Legislature amended Section 367.0814(1), F.S., effective July 1, 2008, to increase the maximum gross annual revenue a water and/or wastewater company may have in order to be eligible for staff assistance in rate setting. The statutory eligibility requirement was increased from \$150,000 or less to \$250,000 or less in maximum gross annual revenue.

Rules 25-30.455, 25-30.456 and 25-30.457, F.A.C., currently provide that water and wastewater utilities whose total gross annual operating revenues are \$150,000 or less for water service or \$150,000 or less for wastewater service, or \$300,000 or less on a combined basis are eligible for staff assistance in rate setting, alternative rate setting, and limited rate setting, respectively. Staff recommends that the rules be amended to reflect that water and wastewater utilities whose total gross annual operating revenues are \$250,000 or less for water service or \$250,000 or less for wastewater service, or \$500,000 or less on a combined basis are eligible for such staff assistance. (Attachment A) The purpose of the recommended changes to the rules is to update them to implement the recently amended eligibility criteria for water and/or wastewater utilities to receive staff assistance in changing their rates and charges as provided in Section 367.0184, Florida Statutes (F.S.) (2008).

Statement of Estimated Regulatory Cost (SERC)

The SERC, Attachment B, notes that there should be minimal costs incurred by the Commission to implement the proposed rule amendments. More utilities will be eligible for staff assisted rate cases (SARCs) and rate increase alternatives under the revised rules and there will be additional staff time required to work on SARCs. However, there will be offsetting of staff time, as less time will be spent by staff on utility-sponsored rate cases.

The proposed rule amendments will affect 14 water and 14 wastewater utilities that will be eligible to participate in the staff assistance program under the increased eligibility requirements that were not eligible for staff assistance in changing their rates and charges prior to the 2008 amendment to Section 367.0184(1), F.S. These utilities' rate case costs will likely decrease. Ratepayers of any of the eligible utilities using the staff assisted program will potentially be responsible for less rate case expense in future rate cases. Moreover, there should be no negative impacts on small businesses, small cities, or small counties resulting from the adoption of the proposed rule amendments. Small business will likely experience the same benefit of potentially less rate case expense as residential ratepayers of the eligible utilities. Local governments will likely experience the same transactional benefits as small businesses and residential ratepayers.

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Based on the foregoing, staff recommends that the Commission propose the amendments to Rules 25-30.455, 25-30.456 and 25-30.457, F.A.C., as set forth in Attachment A.

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Issue 2: Should this docket be closed?

Recommendation: Yes, if no requests for hearing or comments are filed, the rule amendments as proposed should be filed for adoption with the Secretary of State and the docket should be closed.

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.

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

2 (1) Water and wastewater utilities whose total gross annual operating revenues are
3 ~~\$250,000~~~~\$150,000~~ or less for water service or ~~\$250,000~~~~\$150,000~~ or less for wastewater service,
4 or ~~\$500,000~~~~\$300,000~~ or less on a combined basis, may petition the Commission for staff
5 assistance in rate applications by submitting a completed staff assisted rate case application. In
6 accordance with Section 367.0814(4), F.S., a utility that requests staff assistance waives its right
7 to protest by agreeing to accept the final rates and charges approved by the Commission unless
8 the final rates and charges would produce less revenue than the existing rates and charges. If a
9 utility that chooses to utilize the staff assistance option employs outside experts to assist in
10 developing information for staff or to assist in evaluating staff's schedules and conclusions, the
11 reasonable and prudent expense will be recoverable through the rates developed by staff. A
12 utility that chooses not to exercise the option of staff assistance may file for a rate increase under
13 the provisions of Rule 25-30.443, F.A.C.

14 (2) Upon request, the Division of Economic Regulation shall provide the potential
15 applicant with the appropriate application form, Commission Form PSC/ECR 2-W (Rev. 11/86),
16 "Application for Staff Assisted Rate Case", which is incorporated by reference in this rule, and a
17 copy of Rule 25-30.455, F.A.C., governing staff assisted rate cases. The form may be obtained
18 from the Commission's Division of Economic Regulation, 2540 Shumard Oak Boulevard,
19 Tallahassee, Florida 32399-0850.

20 (3) Upon completion of the form, the petitioner may return it to the Office of
21 Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard,
22 Tallahassee, Florida 32399-0870.

23 (4) Upon receipt of a completed application, the Office of Commission Clerk shall
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1 acknowledge its receipt, assign a docket number for identification, and shall forward the
2 application to a committee comprised of one member each of the Commission's Divisions of
3 Economic Regulation, Regulatory Compliance and Consumer Assistance, and Office of General
4 Counsel.

5 (5) Within 30 days of receipt of the completed application, the committee shall evaluate
6 the application and determine the petitioner's eligibility for staff assistance.

7 (a) If the Commission has received four or more applications in the previous 30 days; or,
8 if the Commission has 20 or more docketed staff assisted rate cases in active status on the date
9 the application is received, the Commission shall deny initial evaluation of an application for
10 staff assistance and close the docket. When an application is denied under the provisions of this
11 subsection, the applicant shall be notified of the date on which the application may be
12 resubmitted.

13 (b) Initially, determinations of eligibility may be conditional, pending an actual
14 examination of the condition of petitioner's books and records. After an initial determination of
15 eligibility, the Division of Regulatory Compliance and Consumer Assistance committee shall
16 examine the books and records of the utility before making a final determination of eligibility.

17 (c) All recommendations of ineligibility shall be in writing and shall state the deficiencies
18 in the application with reference to guidelines set out in subsection (8) of this rule.

19 (6) Upon reaching a decision to officially accept or deny the application, the Director of
20 the Division of Economic Regulation shall notify the petitioner by letter and initiate staff
21 assistance for the accepted applicant.

22 (7) The official date of filing will be 30 days after the date of the letter notifying the
23 applicant of the official acceptance of the application by the Commission.

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1 (8) In arriving at a recommendation whether to grant or deny the petition, the following
2 shall be considered:

3 (a) Whether the petitioner qualifies for staff assistance pursuant to subsection (1) of this
4 rule;

5 (b) Whether the petitioner's books and records are organized consistent with Rule 25-
6 30.110, F.A.C., so as to allow commission personnel to verify costs and other relevant factors
7 within the 30-day time frame set out in this rule;

8 (c) Whether the petitioner has filed annual reports;

9 (d) Whether the petitioner has paid applicable regulatory assessment fees;

10 (e) Whether the petitioner has at least 1 year's actual experience in utility operation;

11 (f) Whether the petitioner has filed additional relevant information in support of
12 eligibility, together with reasons why the information should be considered;

13 (g) Whether the petitioner has complied in a timely manner with all Commission
14 decisions and requests affecting water and wastewater utilities for 2 years prior to the filing of
15 the application under review;

16 (h) Whether the utility has applied for a staff assisted rate case within the 2-year period
17 prior to the receipt of the application under review.

18 (9) The Commission will deny the application if a utility does not remit the fee as
19 provided by Section 367.145, F.S., and paragraph 25-30.020(2)(f), F.A.C., within 30 days after
20 official acceptance.

21 (10) An aggrieved petitioner may request reconsideration which shall be decided by the
22 full Commission.

23 (11) A substantially affected person may file a petition to protest the Commission's
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1 proposed agency action in a staff assisted rate case within 21 days of issuance of the Notice of
2 Proposed Agency Action as set forth in Rule 25-22.036, F.A.C.

3 (12) In the event of a protest of the Commission's Notice of Proposed Agency Action
4 (PAA Order) in a staff assisted rate case, the utility shall:

5 (a) Provide prefiled direct testimony in accordance with the procedural order in the case.

6 At a minimum, that testimony shall adopt the Commission's PAA Order in the case;

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

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

13 (d) Meet all other requirements of the order establishing procedures.

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

17 (14) In the event of a protest of the Commission's PAA Order in a staff assisted rate case
18 the Commission staff shall:

19 (a) File prefiled direct testimony to explain its analysis in the PAA recommendation. In
20 the event the staff wishes to alter its PAA position on any issue, it shall provide factual testimony
21 to support its changed position.

22 (b) Meet all other requirements of the order establishing procedures;

23 (c) Provide to the utility materials to assist the utility in the preparation of its testimony
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1 and exhibits. This material shall consist of an example of testimony filed by a utility in another
2 case, an example of testimony that would support the PAA Order in this case, an example of an
3 exhibit filed in another case, and examples of prehearing statements and briefs filed in other
4 cases.

5 Specific Authority 367.121, 371.0814 FS.

6 Law Implemented 367.0814 FS.

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

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10 **25-30.456 Staff Assistance in Alternative Rate Setting.**

11 (1) As an alternative to a staff assisted rate case as described in Rule 25-30.455, F.A.C.,
12 water and wastewater utilities whose total gross annual operating revenues are
13 ~~\$250,000~~~~\$150,000~~ or less for water service or ~~\$250,000~~~~\$150,000~~ or less for wastewater service,
14 or ~~\$500,000~~~~\$300,000~~ or less on a combined basis, may petition the Commission for staff
15 assistance in alternative rate setting by submitting a completed staff assisted application for
16 alternative rate setting.

17 (2) Upon request, the Division of Economic Regulation shall provide the potential
18 applicant with the application form, PSC/ECR 25 (11/93), titled “Application for Staff
19 Assistance for Alternative Rate Setting” which is incorporated by reference in this rule, and a
20 copy of the rules governing Staff Assistance in Alternative Rate Setting. The form may be
21 obtained from the Commission’s Division of Economic Regulation, 2540 Shumard Oak
22 Boulevard, Tallahassee, Florida 32399-0850.

23 (3) Upon completion of the form, the applicant may return it to the Office of Commission
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1 Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida
2 32399-0870.

3 (4) Upon receipt of an application, the Office of Commission Clerk shall acknowledge its
4 receipt, assign a docket number for identification, and shall forward the application to the
5 Commission's Division of Economic Regulation.

6 (5) Within 30 days of receipt of the completed application, the Division of Economic
7 Regulation shall evaluate the application and determine the petitioner's eligibility for staff
8 assistance.

9 (a) If the Commission has received four or more alternative rate setting applications in
10 the previous 30 days; or, if the Commission has 20 or more docketed staff assisted rate cases in
11 active status on the date the application is received, the Commission shall deny initial evaluation
12 of an application for staff assistance and close the docket. When an application is denied under
13 the provisions of this subsection, the applicant shall be notified of the date on which the
14 application may be resubmitted.

15 (b) Determinations of eligibility may be conditional, pending an actual examination of
16 the condition of petitioner's books and records.

17 (c) All recommendations of ineligibility shall be in writing and shall state the deficiencies
18 in the application with reference to guidelines set out in subsection (8) of this rule.

19 (6) Upon reaching a decision to officially accept or deny the application, the Director of
20 the Division of Economic Regulation shall notify the applicant by letter and initiate staff
21 assistance for the accepted applicant.

22 (7) The official date of filing will be 30 days after official acceptance of the application
23 by the Commission.

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1 (8) In deciding whether to grant or deny the application, the following shall be
2 considered:

3 (a) Whether the applicant qualifies for staff assistance pursuant to subsection (1) of this
4 rule;

5 (b) Whether the applicant has filed annual reports;

6 (c) Whether the applicant has paid applicable regulatory assessment fees;

7 (d) Whether the applicant has at least 1 year's actual experience in utility operation;

8 (e) Whether the applicant has filed additional relevant information in support of
9 eligibility, together with reasons why the information should be considered;

10 (f) Whether the applicant has made a good faith effort in a timely manner to comply with
11 all Commission decisions and requests affecting water and wastewater utilities for 2 years prior
12 to the filing of the application under review;

13 (g) Whether the utility has been granted a staff assisted rate case or alternative rate setting
14 within the 2-year period prior to the receipt of the application under review.

15 (9) The Commission shall deny the application if a utility does not remit the fee, as
16 provided by Section 367.145, F.S., and paragraph 25-30.020(2)(f), F.A.C., within 30 days after
17 official acceptance.

18 (10) An aggrieved applicant may request reconsideration which shall be decided by the
19 full Commission.

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

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1 (12) The Commission shall limit the maximum increase in operating revenues to 50
2 percent of test year operating revenues.

3 (13) The Commission shall vote on a proposed agency action (PAA) recommendation
4 establishing rates no later than 90 days from the official filing date as established in subsection
5 25-30.455(7), F.A.C.

6 (14) A substantially affected person may file a petition to protest the Commission's PAA
7 Order regarding a staff assisted alternative rate setting application within 21 days of issuance of
8 the Notice of Proposed Agency Action as set forth in Rule 28-106.201, F.A.C.

9 (15) In the event of protest of the PAA Order by a substantially affected party, the rates
10 established in the PAA Order may be implemented on a temporary basis. At that time the utility
11 may elect to pursue rates set pursuant to the rate base determination provisions of Rule 25-
12 30.455, F.A.C.

13 (16) In the event of a protest the maximum increase established in subsection (13) above
14 shall no longer apply.

15 (17) In the event of a protest of the Commission's PAA Order in a staff assisted
16 alternative rate setting application, the utility shall:

17 (a) Provide prefiled direct testimony in accordance with the procedural order in the case.
18 At a minimum, that testimony shall adopt the Commission's PAA Order in the case;

19 (b) Sponsor a witness to support source documentation provided to the Commission staff
20 in its preparation of the staff engineering and accounting analysis and the staff PAA
21 recommendation in the case;

22 (c) Include in its testimony the necessary factual information to support its position on
23 any issue that it chooses to take a position different than that contained in the Commission's
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1 PAA Order;

2 (d) Meet all other requirements of the order establishing procedures.

3 (18) Failure to comply with the dates established in the procedural order, or to timely file
4 a request for extension of time for good cause shown, may result in dismissal of the staff assisted
5 alternative rate setting application and closure of the docket.

6 (19) In the event of protest of the Commission's PAA Order in a staff assisted alternative
7 rate setting application the Commission staff shall:

8 (a) File prefiled direct testimony to explain its analysis in the PAA recommendation. In
9 the event the staff wishes to alter its PAA position on any issue it shall provide factual testimony
10 to support its changed position.

11 (b) Meet all other requirements of the order establishing procedures;

12 (c) Provide to the utility materials to assist the utility in the preparation of its testimony
13 and exhibits. This material shall consist of an example of testimony filed by a utility in another
14 case, a sample of testimony that would support the PAA Order in this case, an example of an
15 exhibit filed in another case, and examples of prehearing statements and briefs filed in other
16 cases.

17 Specific Authority 367.0814, 367.121 FS.

18 Law Implemented 367.0814 FS.

19 History—New 11-30-93, Amended 1-31-00.

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22 **25-30.457 Limited Alternative Rate Increase.**

23 (1) As an alternative to a staff assisted rate case as described in Rules 25-30.455 and 25-30.456,
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1 F.A.C., water utilities whose total gross annual operating revenues are ~~\$250,000~~\$150,000 or less
2 for water service and wastewater utilities whose total gross annual operating revenues are
3 ~~\$250,000~~\$150,000 or less for wastewater service may petition the Commission for a limited
4 alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all
5 classes of service by submitting a completed application that includes the information required
6 by subsections (8) and (9). In accordance with Section 367.0814(6), F.S., a utility that requests
7 staff assistance waives its right to protest by agreeing to accept the final rates and charges
8 approved by the Commission unless the final rates and charges would produce less revenue than
9 the existing rates and charges. The original and two copies of the application shall be filed with
10 the Office of Commission Clerk.

11 (2) Upon filing a petition for a limited alternative rate increase, the utility shall mail a
12 copy of the petition to the chief executive officer of the governing body of each municipality and
13 county within the service areas included in the rate request and retain a copy at the utility's
14 business office.

15 (3) Within 30 days of receipt of the completed application, the Division of Economic
16 Regulation shall evaluate the application and determine the petitioner's eligibility for a limited
17 alternative rate increase.

18 (4) Upon reaching a decision to officially accept or deny the application, the Director of
19 the Division of Economic Regulation shall notify the petitioner by letter. If the application is
20 accepted, the Director will initiate limited alternative rate setting. If the application is denied, the
21 letter shall state the reasons for denial.

22 (5) The official date of filing will be 30 days after official acceptance of the application
23 by the Commission.

1 (6) A utility described in subsection (1) will qualify for limited alternative rate setting if it
2 satisfies the following criteria:

3 (a) The petitioner has filed all annual reports required by subsection 25-30.110(3),
4 F.A.C.;

5 (b) The petitioner has paid applicable regulatory assessment fees as required by Rule 25-
6 30.120, F.A.C.;

7 (c) The petitioner has at least 1 year's actual experience in utility operation;

8 (d) The petitioner has complied in a timely manner with all Commission decisions
9 affecting water and wastewater utilities for 2 years prior to the filing of the application under
10 review;

11 (e) The utility has not been granted a staff assisted rate case pursuant to Rule 25-30.455,
12 F.A.C., or a staff assisted alternative rate setting pursuant to Rule 25-30.456, F.A.C., within the
13 2-year period prior to the receipt of the application under review;

14 (f) The utility has not been granted a limited alternative rate increase pursuant to this rule
15 within the 3-year period prior to the receipt of the application under review;

16 (g) The utility is currently in compliance with any applicable water management district
17 permit conditions concerning rate structure; and

18 (h) A final order in a rate proceeding that established the utility's rate base, capital
19 structure, annual operating expenses and revenues has been issued for the utility within the 7-
20 year period prior to the receipt of the application under review.

21 (7) The Commission shall deny the application if a petitioner does not remit the fee, as
22 provided by Section 367.145, F.S., and paragraph 25-30.020(2)(f), F.A.C., within 30 days after
23 official acceptance of the application.

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1 (8) Each petitioner for limited alternative rate increase shall provide the following general
2 information to the Commission:

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

5 (b) The type of business organization under which the utility's operations are conducted:
6 If the petitioner is a corporation, the date of incorporation and the names and addresses of all
7 persons who own 5 percent or more of the petitioner's stock; if the petitioner is not a corporation,
8 the names and addresses of the owners of the business.

9 (9) The petitioner shall provide a schedule showing:

10 (a) Annualized revenues by customer class and meter size for the most recent 12-month
11 period using the rates in effect at the time the utility files its application; and

12 (b) Current and proposed rates for all classes of customers.

13 (10) The petitioner shall provide a statement that the figures and calculations upon which
14 the change in rates is based are accurate and that the change will not cause the utility to exceed
15 its last authorized rate of return on equity.

16 (11) A financial or engineering audit of the utility's financial or engineering books and
17 records shall not be required in conjunction with the application under review.

18 (12) The application will be approved, denied, or approved with modifications within 90
19 days from the official filing date as established in subsection (5) above.

20 (13) In consideration of subsections (11) and (12), the utility agrees to hold any revenue
21 increase granted under the provisions of this rule subject to refund with interest in accordance
22 with Rule 25-30.360, F.A.C., for a period of 15 months after the filing of the utility's annual
23 report required by Section 367.121, F.S., for the year the adjustment in rates was implemented.

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1 (14) To insure overearnings will not occur due to the implementation of this rate increase,
2 the Commission will conduct an earnings review of the utility's annual report to determine any
3 potential overearnings for the year the adjustment in rates was implemented.

4 (15) If, within 15 months after the filing of a utility's annual report required by Section
5 367.121, F.S., the Commission finds that the utility exceeded the range of its last authorized rate
6 of return on equity after an adjustment in rates, as authorized by this rule, was implemented
7 within the year for which the report was filed, such overearnings, up to the amount held subject
8 to refund, with interest, shall be disposed of for the benefit of the customers as provided in
9 Section 367.081(4)(d), F.S.

10 (16) In the event of a protest of the proposed agency action (PAA) order pursuant to Rule
11 28-106.201, F.A.C., by a substantially affected person other than the utility, unless the PAA
12 Order proposes a rate reduction, the utility may implement the rates established in the PAA
13 Order on a temporary basis upon the utility filing a staff assisted rate case application pursuant to
14 Rule 25-30.455, F.A.C., within 21 days of the date the protest is filed.

15 (17) In the event of a protest, the limit on the maximum increase provided in subsection
16 (1) above shall no longer apply.

17 (18) If the utility fails to file a staff assisted rate case application within 21 days in the
18 event there is a protest, the application for a limited alternative rate increase will be deemed
19 withdrawn.

20 Specific Authority 350.127(2), 367.0814, 367.121(1)(a) FS.

21 Law Implemented 350.123, 367.0814, 367.121, 367.145(2) FS.

22 History—New 3-15-05.

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

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

DATE: August 29, 2008
TO: Office of General Counsel (Gervasi)
FROM: Division of Economic Regulation (Hewitt)
RE: Proposed Amendments of Rule 25-30.55, 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

DETAILED DESCRIPTION OF THE PROPOSED RULE

1. Why are the rule amendments being proposed?

These rules implement 367.0814, F. S. which authorizes the Commission to conduct a staff assisted rate case for eligible water and wastewater utilities. The statute was changed to raise the level of eligibility for Staff Assistance in Rate Cases (SARCs) from \$150,000, or less, to \$250,000 in total gross annual operating revenues for a water or wastewater utility or from \$300,000 to \$500,000 in revenues, or less, when combined. The Commission must also submit to the legislature a report every 5 years on the status of the proceedings conducted under the changed statute, including the number of utilities eligible to request staff assistance, the number of proceedings conducted annually for the most recent 5-year period, the associated impact on commission resources, and any other appropriate information. Commission rules must be amended to conform to the latest statute changes.

2. What do the rules do and how do they accomplish the goal?

Rule 25-30.455, F.A.C., Staff Assistance in Rate Cases, defines the eligibility requirements for a water or wastewater utility to have a SARC. A water or wastewater utility must have total gross annual operating revenues of \$150,000 or less, which would be amended to \$250,000 or less, or \$500,000 on a combined basis. The rule establishes procedures for a utility to apply for a SARC and the conditions under which a SARC will be conducted and the time frame for determination of the rendering of assistance.

Rule 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting, defines the eligibility requirements for a water or wastewater utility to petition for a SARC in an alternative rate setting. A water or wastewater utility must have total gross annual operating revenues of \$150,000 or less, which would be amended to \$250,000 or less, or from \$300,000 to \$500,000 on

a combined basis. The rule establishes procedure for a utility to apply for an alternative SARC and the conditions under which it will be conducted and the time frame for determination of the rendering of assistance.

Rule 25-30.457, F.A.C., Limited Alternative Rate Increase, allows for a limited alternative procedure to the SARC. A water or wastewater utility must have total gross annual operating revenues of \$150,000 or less, which would be amended to \$250,000 or less, or from \$300,000 to \$500,000 on a combined basis. The rule establishes procedures for a utility to apply for a limited alternative rate increase and the conditions under which it will be conducted and the time frame for determination of the rendering of assistance.

IMPACT ON THE PSC

Incremental costs

There should be minimal costs to implement the proposed rule amendments. More utilities would be eligible for SARCs and rate increase alternatives under the revised rules. There would be additional staff time required to work on SARCs. However, there would be offsetting less time spent by staff on utility sponsored rate cases.

Incremental benefits

There is no direct benefit to the Commission resulting from the implementation of the proposed rule amendments.

WHO BESIDES THE PSC WILL BE AFFECTED BY ADOPTION OF THE PROPOSAL

Utilities

The proposed rule amendments would affect 14 water and 14 wastewater utilities which could participate in the staff assistance program.

Customers

Ratepayers of any of the eligible utilities using the staff assisted program may be responsible for less rate case expense in future rate cases.

Outside business and local governments

There should be no negative impacts on small businesses, small cities, or small counties resulting from an adoption of the above rule amendments.

HOW ARE THE PARTIES ABOVE AFFECTED BY THE ADOPTION OF THE PROPOSAL

Estimated transactional costs to individuals and entities

Utilities

The proposed rule amendments would likely decrease rate case costs of the eligible utilities in Florida.

Customers

Ratepayers of any of the eligible utilities using the staff assisted program may be responsible for less rate case expense in future rate cases.

Outside business including specifically small businesses

Small business would likely experience the same benefit of potentially less rate case expense as residential ratepayers.

Local governments

Local governments would likely experience the same transactional benefits as small businesses and residential ratepayers.

ANY OTHER PERTINENT COMMENTS REGARDING THE APPLICATION OF THE PROPOSED RULE

No other pertinent comments are germane to the proposed rule amendments.

CH:kb

cc: Mary Andrews Bane
Tim Devlin
Marshall Willis