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 October 12, 2021

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Item 1A

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: September 30, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Deas)^{CH}
Office of the General Counsel (Imig)^{TL}

RE: Application for Certificate of Authority to Provide Telecommunications Service

AGENDA: 10/12/2021 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

Please place the following Application for Certificate of Authority to Provide Telecommunications Service on the consent agenda for approval.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
20210146-TX	Wire 3 LLC	8965

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entity listed above for payment by January 30.

Item 1B

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: September 30, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Mathis, D. Buys, Cicchetti) *ALM*
Office of the General Counsel (Sandy) *JSC*

RE: Docket No. 20210127-EI - Application for authority to issue and sell securities during calendar years 2022 and 2023, pursuant to Section 366.04, F.S., and Chapter 25-8, F.A.C., by Florida Power & Light Company and Florida City Gas.

AGENDA: 10/12/2021 - Consent Agenda - Final Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

Please place the following application for authority to issue and sell securities on the consent agenda for approval.

Docket No. 20210127-EI - Application for authority to issue and sell securities during calendar years 2022 and 2023, pursuant to Section 366.04, F.S., and Chapter 25-8, F.A.C., by Florida Power & Light Company and Florida City Gas.

Florida Power & Light Company (FPL or Company) seeks authority to issue and sell and/or exchange any combination of long-term debt and equity securities and/or to assume liabilities or obligations as guarantor, endorser or surety in an aggregate amount not to exceed \$7.85 billion during calendar year 2022.

In addition, FPL seeks permission to issue and sell short-term securities during the calendar years 2022 and 2023 in an amount or amounts such that the aggregate principal amount of short-term securities outstanding at the time of and including any such sale shall not exceed \$4.9 billion.

Florida City Gas (FCG) seeks Commission approval to make long-term borrowings from FPL in an aggregate amount not to exceed \$300 million during 2022 and make short-term borrowings from FPL in an aggregate principal amount not to exceed \$150 million at any one time during calendar years 2022 and 2023.

Docket No. 20210127-EI
Date: September 30, 2021

In connection with this application, FPL confirms that the capital raised pursuant to this application will be used in connection with the regulated activities of FPL and FPL's subsidiaries, including FCG, and not the nonregulated activities of its subsidiaries or affiliates.

Staff has reviewed FPL's projected capital expenditures. The amount requested by the Company (\$12.75 billion, of which \$450 million is for FCG) exceeds its expected capital expenditures (\$7.067 billion in 2022). The additional amount requested exceeding the projected capital expenditures allows for financial flexibility for unexpected events such as hurricanes, financial market disruptions and other unforeseen circumstances. Staff believes the requested amounts are appropriate. Staff recommends FPL's petition to issue securities be approved.

For monitoring purposes, this docket should remain open until May 5, 2023, to allow the Company time to file the required Consummation Report.

Item 2

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: September 30, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Williams) ^{CH}
Office of the General Counsel (Murphy, Imig) ^{TJ}

RE: Docket No. 20210049-TP – Request for submission of proposals for relay service, beginning in March 2022, for the deaf, hard of hearing, deaf/blind, or speech impaired, and other implementation matters in compliance with the Florida Telecommunications Access System Act of 1991.

AGENDA: 10/12/21 – Regular Agenda – Participation is Limited to Commissioners and Staff

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: Current contract expires on February 28, 2022.

SPECIAL INSTRUCTIONS: Anticipate the need for sign language interpreters and assisted listening devices. Please place at the beginning of the agenda to reduce interpreter costs.

Case Background

The Telecommunications Access System Act of 1991 (TASA), Chapter 427, Part II, Florida Statutes (F.S.), requires the Florida Public Service Commission (Commission) to select a Telecommunications Relay Services (TRS or relay service)¹ provider and oversee the administration of the relay system. The Commission currently contracts with Sprint Communications Company, L.P. (Sprint), a wholly-owned subsidiary of T-Mobile USA, Inc., for

¹ Telecommunications Relay Services allow persons who are deaf, hard of hearing, deafblind, or have speech disabilities to communicate by telephone through a Communication Assistant (CA) or advanced assistive technology.

the provision of relay service.² The existing Florida relay service provider contract expires February 28, 2022. On March 1, 2021, Sprint provided notice to the Commission that when the existing contract in Florida expires it would not seek to extend the contract into the optional renewal for the second year. In response, staff opened Docket No. 20210049-TP to initiate a new Request for Proposals (RFP) to provide relay service in Florida.

At the May 4, 2021 Agenda Conference, the Commission approved the issuance of the RFP. Accordingly, a Notice of Request for Proposals (Notice) was published in the Florida Administrative Register on May 11, 2021. Staff also placed the RFP on the Florida Department of Management Services' Vendor Bid System, and posted a link to the RFP on the Commission's website under Florida Relay. The deadline for filing proposals was June 17, 2021.

A Proposal Review Committee (PRC) was established that consisted of nine members, one from the TASA Advisory Committee and eight members from Commission staff. Two of the staff members served as accountants reviewing the financial information of the companies. Five staff members, plus the TASA Advisory Committee member, reviewed and scored the technical aspects of the proposals. A staff member was selected by the Director of the Office of Industry Development & Market Analysis to serve as the PRC Chairman. To remain independent, the PRC Chairman did not participate in the scoring of the financial or technical proposals. The role of the PRC Chairman was to coordinate and oversee the procurement process, to gather materials from references specified in the proposals, to interface with the RFP respondents regarding clarifications and questions about their proposals, and to tabulate scores to identify the winning proposal.

Two companies, Hamilton Relay, Inc. (Hamilton) and Sprint, responded to the RFP and filed price and technical proposals.³ Evaluation of the proposals began with a pass/fail evaluation of 31 technical and 2 financial aspects of the proposals. This was followed by an evaluation of 31 technical aspects of the proposals, with an assignment of numerical scores for each of the 31 technical items. The price proposals were submitted in sealed envelopes separate from the companies' technical proposals and were opened in the Office of the Commission Clerk on August 31, 2021, after the technical scoring was completed. As previously approved by the Commission in the RFP, a weight of 50 percent was applied to the technical aspect of the proposals and a weight of 50 percent was applied to the price aspect of the proposals.

This recommendation addresses which provider the Commission should select as the relay service provider. The Commission has jurisdiction pursuant to Section 427.704, F.S.

² Sprint is the entity through which T-Mobile provides state and federal relay services.

³ Hamilton and Sprint price and technical proposals. [10052-2021.pdf](#)

Discussion of Issues

Issue 1: Who should be awarded the Florida relay service provider contract?

Recommendation: Based upon the RFP evaluation process, staff recommends the Commission select Sprint as the relay service provider and direct the Commission's Executive Director or designee to: (1) issue the attached letter of intent to Sprint and Hamilton (Attachment A); (2) provide notice on the Florida Department of Management Services Vendor Bid System of the Commission's decision to award a three-year contract to provide the statewide relay service in Florida to Sprint; and (3) finalize and sign a contract with Sprint to provide the relay service. (Williams, Murphy)

Staff Analysis: The RFP encompassed the criteria in Section 427.704(3)(a), F.S., for the selection of the provider of the telecommunications relay service by the Commission. Section E of the RFP, entitled "The Evaluation Method to be Used and Filing Checklist," provides specific instructions and guidelines for the evaluation of the proposals. In accordance with the instructions, each RFP respondent's weighted percentage score for its technical proposal and its price proposal were added together to determine the proposal with the highest score.

Evaluation of Proposals

The PRC evaluated the technical proposals using a pass/fail criterion for some items and a point rating system for other items. Each proposal successfully advanced beyond the pass/fail section. After evaluating the pass/fail items, the evaluators scored the technical items and the technical scores were calculated. The price proposals were not opened until after the technical evaluations were completed.

The evaluators received specific forms on which to record their evaluations. The forms included an affidavit that each evaluator signed accepting the conflict of interest provisions in Section 427.704(3)(c), F.S. Also, each page of the forms included a place for the evaluator to indicate the date the evaluation was performed, a signature line, and a place to score the points or enter a pass/fail, whichever was appropriate for the item under evaluation.

Assignment of Points

Each technical evaluator independently assigned points within the RFP allotted range to 31 items. The items rated had maximum point values ranging from 25 to 200 points. The points from each evaluator were added together to produce the technical score for each proposal.

The technical and price proposals were evaluated, as described in Section E of the RFP, using a weighting of 50 percent for the technical and 50 percent for the price (broken down into 18.14 percent for basic TRS and 31.86 percent for Captioned Telephone Service (CTS)).⁴ The weighted percentage scores for the technical proposal and the price proposal were then added together to produce a final score for each proposal. Table 1-1 below shows the results of the scoring.

⁴ Captioned Telephone Service is a type of TRS that involves the use of a captioned telephone that displays text.

TABLE 1-1
Summary of the Technical and Price Proposals

	Hamilton	Sprint
Technical Points	16,080	16,005
Highest Technical Score – Hamilton	16,080	
Technical Evaluation (Bidder’s score/highest score) X 0.5	.5000	.4977
Price Per Minute for Basic TRS	\$2.14	\$1.60
Lowest Price – Sprint	\$1.60	
Price Evaluation for Basic TRS (Lowest Price/Bidder’s Price) X 0.1814	0.1356	0.1814
Price Per Minute for CTS	\$1.80	\$1.67
Lowest Price – Sprint	\$1.67	
Price Evaluation for CTS (Lowest Price/Bidder’s Price) X 0.3186	0.2956	0.3186
Final Score (Technical Evaluation + Price Evaluation)	0.9312	0.9977

Analysis of the Scoring

As shown in Table 1-1, Hamilton received the highest technical score with 16,080 points. By comparison, Sprint received 16,005 points. Three of the six technical evaluators scored Hamilton the highest, while two evaluators scored Sprint the highest. One evaluator’s score resulted in a tie. Sprint offered the lowest price per session minute for basic TRS at \$1.60. Hamilton’s basic TRS price per session minute was \$2.14. Sprint also offered the lowest price per minute for CTS at \$1.67. Hamilton’s CTS price per minute was \$1.80.⁵

⁵ Sprint and Hamilton proposed rates for basic TRS are higher than the current Sprint contract rate of \$1.35. However, Sprint’s proposed \$1.67 rate for CTS results in a rate reduction of the current contract rate of \$1.69. Hamilton’s proposed \$1.80 rate for CTS would result in a rate increase.

Highlights of Sprint's Proposal

- **Communications Assistants (CA) Qualifications and Testing** will remain a priority as it does in the current contract. Sprint's proposal states that all CA applicants are tested before hiring, and CAs in training have proficient typing skill, call processing knowledge, and interpretation of typewritten American Sign Language (ASL). Sprint also acknowledges that all relay CAs receive continuous training and are routinely evaluated to monitor service quality. Consistent with the current contract, both in-house and third-party testing will be used to evaluate CAs. Further, Sprint ensures all CAs meet performance specifications using a Quality Assurance (QA) program. The QA program encompasses all stages of employee development, including hiring, training, ongoing performance evaluations, and individual development training. Lastly, Sprint makes a commitment to continue ethics and diversified culture training. Throughout the company's training, CAs receive information and guidelines on professional conduct with an emphasis on ethics and confidentiality. CAs and supervisors are required to sign and abide by a pledge of confidentiality. Diversified training focuses on the needs of the Deaf, Hard of Hearing, Deaf-Blind, seniors with a hearing loss, and people with a speech disability. Specifically, employees are trained on the culture, background, and language of relay user communities.
- **Sprint provides TRS and CTS from 13 call centers** to meet its requirements and goals to provide reliable and cost-effective service. Some of the relay call centers are operated by Sprint directly and some are operated under contract by CapTel, Inc., which has a long history of providing advanced assistive technology. Sprint currently does not operate a call center in Florida, but does provide CTS through its subcontractor in Orlando and Tampa. Sprint further states in its proposal that it has strategically placed many of its call centers in locations that minimize the impact of hurricanes, tornadoes, and other catastrophes. Sprint also makes a commitment that Florida relay calls will continue to be routed to Gold Star CAs, which are Sprint's most experienced and trained CAs. Further, Sprint states that Florida relay users will benefit from Sprint's Intelligent Call Routing, which ensures the next available TRS or CTS CA answers each call. Sprint commits in its proposal that its Intelligent Call Routing can send calls to any CA in its 13 geographically diverse call centers. Lastly, Sprint makes a commitment to continue to develop and include a TRS and CTS CA work from home solution that supports service delivery during natural or man-made disasters.
- **Sprint will continue to assign a Florida Relay Quality Assurance (QA) Manager** to oversee all areas of training, quality assurance, monthly testing, and customer feedback in Florida. Sprint QA managers coordinate all training and policies with the call center supervisors and trainers to maintain quality standards.
- **Sprint will maintain an in-state Customer Relationship Manager** to lead its consumer input program, coordinate outreach efforts with Florida Telecommunications Relay, Inc., and address relay user issues. The position also serves as a liaison between the QA manager, the Sprint Operations team, and the Commission.

- **Sprint will continue to conduct monthly TRS and CTS Quality Compliance Testing** using an experienced third-party evaluator. In addition to Sprint's internal testing, Sprint has committed to use an independent company to evaluate service quality.
- **Sprint commits to include 30,000 Relay Conference Captioning (RCC) Service minutes annually at no charge.** RCC was presented in Sprint's proposal as an unsolicited service offering. RCC requires a computer, laptop/tablet, or mobile device with high-speed internet connection. As conference call participants speak, the CA transcribes the conversation over the internet to the RCC user. The RCC user can speak or type responses. Transcripts are also available at no additional charge. After the 30,000 free minutes, RCC users are billed at \$3.26 per minute. RCC users include individuals, private sector organizations, and government agencies.

Conclusion

Of the two proposals, the one with the highest final score is Sprint (see Table 1-1). As required by Section E of the RFP, staff recommends the Commission contract with Sprint to provide the statewide relay service in Florida for the next three years (March 2022 - February 2025), with the option of four additional one-year periods upon mutual agreement.

Based upon the RFP evaluation process, staff recommends the Commission direct the Commission's Executive Director or designee to: (1) issue the attached letter of intent to Sprint and Hamilton (Attachment A); (2) provide notice on the Florida Department of Management Services Vendor Bid System of the Commission's decision to award a three-year contract to Sprint to provide the statewide telecommunications relay service in Florida; and (3) finalize and sign a contract with Sprint to provide the relay service.

FINALIZATION OF THE CONTRACT

After the Commission vote on this recommendation, the Commission will post the notice of its decision on the Florida Department of Management Services Vendor Bid System. Persons will have 72 hours after the posting of the notice to protest the decision. In addition, the attached letter of intent (Attachment A) to contract with Sprint for relay service will be sent by certified mail to the two bidders. If no protest is filed in accordance with Section 120.57(3), F.S., using the electronic posting as the start date, staff should be directed to work with Sprint to finalize contract language and incorporate Sprint's response to the RFP, along with the RFP, as the contract. Two copies of the contract are to be signed by an authorized Sprint representative and the Commission's Executive Director or designee, with each party receiving an original signed contract.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open for the life of the contract. (Murphy)

Staff Analysis: This docket will address matters related to the relay service throughout the life of the contract. Therefore, this docket should remain open for the life of the contract.

October xx, 2021

DELIVERED VIA E-MAIL AND
CERTIFIED MAIL – RETURN RECEIPT REQUESTED

(ADDRESSEE)

Dear (addressee):

It is the intent of the Florida Public Service Commission to award a three-year contract to provide the statewide relay service in Florida to Sprint Communications Company, L.P. Please accept our sincere appreciation for participating in the Request for Proposals process.

You are reminded that pursuant to Section 120.57(3), Florida Statutes (F.S.), any party choosing to file a protest of the Commission's intent to award the contract to Sprint Communications Company, L.P., must file a notice of protest in writing within 72 hours after the decision is posted on the Florida Department of Management Services Vendor Bid System. The party is then required by Section 120.57(3), F.S., to file a formal written protest within 10 days after filing the notice of protest. Such formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file a protest within the time prescribed in Section 120.57(3), F.S., or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, F.S.

All documents should be filed in Docket No. 20210049-TP and addressed to Mr. Adam J. Teitzman, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, Attention: Charles Murphy.

Respectfully,

Executive Director or Designee

Item 3

FILED 9/30/2021
DOCUMENT NO. 11700-2021
FPSC - COMMISSION CLERK

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: September 30, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Cowdery) *SMC*
Division of Accounting and Finance (T. Brown, Bulecza-Banks) *ALM*
Division of Economics (Hudson, Sibley, Guffey) *JGH*

RE: Docket No. 20210122-WS – Proposed amendment of Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, F.A.C., related to water and wastewater utilities.

AGENDA: 10/12/21 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

This rulemaking was initiated to update water and wastewater utility rules related to applications for service availability charges, allowance for funds prudently invested, limited proceedings, and staff assistance in rate cases and in alternative rate setting. The draft amendments are intended to make these rules consistent with rule amendments recently adopted by the Commission in other electric, gas, water and wastewater rules¹ that decrease the number of paper copies that utilities are required to file or distribute for public inspection; require utilities to notify customers that applications may be accessed on the Commission's website; change the responsibility for

¹ Docket No. 20200193-PU, *Proposed amendment of Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, and repeal of Rules 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C.*; Docket No. 20200044-WS, *Proposed amendment of Rule 25-30.457, F.A.C., Limited Alternative Rate Increase.*

determining the official date of filing to the Director of the office of primary responsibility; and clarify application filing requirements.

This recommendation addresses whether the Commission should propose the amendment of:

- Rule 25-30.025, Florida Administrative Code (F.A.C.), Official Date of Filing;
- Rule 25-30.4345, F.A.C., Notice of Requests for New or Revised Service Availability Charges or Policies and Notice of Requests for Allowance for Funds Prudently Invested (AFPI) Charges;
- Rule 25-30.445, F.A.C., General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding;
- Rule 25-30.446, F.A.C., Notice of and Public Information for Application for Limited Proceeding Rate Increase;
- Rule 25-30.455, F.A.C., Staff Assistance in Rate Cases;
- Rule 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting; and
- Rule 25-30.565, F.A.C., Application for Approval of New or Revised Service Availability Policy or Charges.

The Notice of Rule Development for these rules appeared in the April 7, 2021 edition of the Florida Administrative Register, Vol. 47, No. 67. No workshop was requested and none was held. The Commission has jurisdiction pursuant to Sections 120.54, 350.127(2), 367.081, 367.0812, 367.0814, 367.0822, 367.083, 367.091, 367.121, and 367.145(2), Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, F.A.C.?

Recommendation: Yes, the Commission should propose the amendment of Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, F.A.C., as set forth in Attachment A. The Commission should also certify Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, F.A.C., as minor violation rules. (Cowdery, Hudson, Sibley, Guffey, T. Brown, Bulecza-Banks)

Staff Analysis: All the draft amended rules have been revised with non-substantive changes to improve clarity. Staff's recommendations on substantive revisions to these rules are discussed below.

Rule 25-30.025, F.A.C., Official Date of Filing

Rule 25-30.025(1), F.A.C., gives the Deputy Executive Director, Technical, the responsibility for determining the official date of filing, that is, the date on which the utility has filed completed sets of the Minimum Filing Requirements (MFRs) and the filing fee. Existing subsection (2) states that the Deputy Executive Director, Technical, shall determine the official date of filing for any utility's application and for advising the applicant.

In Docket 20200193-PU, the Commission amended the gas, electric, water and wastewater rules for rate increase petitions² to change the person responsible for determining whether the MFRs have been met from the Deputy Executive Director, Technical, to the Director of the division that is assigned as the office of primary responsibility (OPR) for the filing. The reason for the change was that it is administratively efficient for the OPR to have these responsibilities since it will be analyzing the application for completeness. For this same reason, staff recommends amending Rule 25-30.025, to make the Director of the OPR division the person who determines the official date of filing and advises the applicant for all applications filed under Chapter 25-30, F.A.C.

Rule 25-30.4345, F.A.C., Notice of Requests for New or Revised Service Availability Charges or Policies and Notice of Requests for Allowance for Funds Prudently Invested (AFPI) Charges

Rule 25-30.4345(2), F.A.C., requires utilities to place a copy of applications for service availability charges or policies or an application for AFPI charges at their official headquarters and at any business offices in the service areas included in the request. The rule requires that if there are no business offices in the service area, a copy must be placed at the main county library, local community center, or other appropriate location within or most convenient to the service area which is willing to accept and provide public access. The rule also states that the Commission may require that copies of the application be placed at other specified locations.

² Rules 25-6.043(2), 25-7.039(2), 25-30.436 (6), F.A.C.

In Docket 20200193-PU, the Commission amended Rules 25-22.0406 and 25-22.0407, F.A.C.,³ to delete the requirements to place paper copies of the rate applications at the utility's official headquarters, business offices in the service area, and main county library or other appropriate location convenient to the service area. The reason for the amendments was to eliminate the costs of producing the copies that have historically been passed on to customers in their rates. Further, staff had found that public buildings, such as libraries and community centers, have indicated that they have limited space and prefer not to have the rate case filings in their facilities. The Commission amended Rule 25-22.0407(3)(b) to replace the requirements to place paper copies at physical locations with the requirement that the water or wastewater utility rate case synopsis and customer notice include a statement that the MFRs can be accessed on the Commission's website.

For the same reasons that the Commission amended Rules 25-22.0406 and 25-22.0407, staff recommends that Rule 25-30.4345(2) be amended to delete the requirements to place application copies at physical locations and, instead, require that the notice of application include a statement that the utility's application can be accessed on the Commission's website.

Rule 25-30.445, F.A.C., General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding.

Paragraph (2)(c) of this rule requires that an original and seven copies of an application for a limited proceeding be filed with the Commission Clerk. Staff recommends that the number of copies required be reduced to three copies. Electronic filing is optional under the Commission Clerk's e-filing guidelines, but the number of paper copies required by the rule must still be filed with the Commission Clerk. Prudent and reasonable copying costs resulting from these rule requirements have historically been included in rate case expense and recovered in rates. Staff believes that because the rate case documents are accessible on-line through the Commission's website, the number of paper copies required by rule may be reduced. The proposed change could also marginally reduce rate case expense while still providing the number of hard copies needed by staff for analyzing a limited proceeding rate case.

Subsection (6) of the rule states that in evaluating whether the utility's request is improper for a limited proceeding, the Commission will consider factors such as whether the filing includes more than four separate projects for which recovery is sought, whether the requested rate increase exceeds 30 percent, whether the utility has not had a rate case in more than seven years, and whether the limited proceeding is filed as result of the complete elimination of either the water or wastewater treatment process. In Docket 20200044-WS, the Commission amended Rule 25-30.457, Limited Alternative Rate Increase, which, like Rule 25-30.445 included a list of factors to be considered by the Commission that were phrased in terms of "whether the petitioner" had taken certain action. This phrasing was replaced with a listing of specific information that must be included in the application in order to clarify the specific criteria that are required for a utility to qualify for a limited alternative rate increase under Rule 25-30.457.

³ Rule 25-22.0406, F.A.C., Notice and Public Information on General Rate Increase Requests and Petitions for Limited Proceedings by Electric and Gas Utilities. Rule 25-22.0407, F.A.C., Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities.

Similarly, staff is recommending that subsection (6) of Rule 25-30.445 be amended to change the phrasing in order to clarify the specific factors that will disqualify a utility from using the limited proceeding process. Currently, limited proceeding cases will not be accepted if a water and/or wastewater utility requests more than four projects. Staff is recommending increasing the maximum number of projects requested in a limited proceeding to six. Staff believes that expanding the number of projects to six will continue to allow the efficient processing of limited proceeding cases and may serve to reduce the number of staff assisted rate cases, which require significant Commission staff time. Moreover, staff does not believe that this change will result in utilities inappropriately using limited proceedings to avoid rate cases. Under paragraphs (6)(b) and (c) of the draft rule, a limited proceeding is not available to a utility if the requested rate increase exceeds 30 percent or if it has not had a rate case in the last seven years.

Water and wastewater utilities that are in need of repair, upgrade, or refurbishment may be required to engage in multiple projects to meet quality standards. Providing water and wastewater utilities a more expeditious process to obtain necessary rate relief can serve to minimize rate case expense and improve service to customers. Staff notes that allowing the use of a limited proceeding for requests of six or fewer projects only provides for the requestor to use the limited proceeding process; the Commission will determine whether any of the projects should be approved for cost recovery.

Rule 25-30.446, F.A.C., Notice of and Public Information for Application for Limited Proceeding Rate Increase.

Rule 25-30.446(2), F.A.C., currently requires a utility to mail a copy of its petition for limited proceeding rate increase to governing bodies, with a statement that the MFRs when accepted by the Commission may be obtained from the petitioner upon request. In Docket 20200193-PU, the Commission amended Rules 25-22.0406 and 25-22.0407, F.A.C.,⁴ to delete this requirement. Rule 25-22.0407, relating to noticing for water and wastewater general rate cases, was amended to require the utility to notify the appropriate government officer that the utility has petitioned for a rate case; to clearly identify the Commission-assigned docket number; and to state that a copy of the petition and MFRs can be accessed on the Commission's website. The reason for these amendments was to save costs incurred in rate cases by eliminating the cost of copying documents and providing them to various physical locations.

Consistent with the amendments to Rule 25-22.0407 and for the same reasons, staff recommends that Section (2) of Rule 25-30.446 be amended to delete the requirement for providing paper copies to the municipal and county governing bodies, and, instead, require that the notification to the government clearly identify the Commission-assigned docket number and state that a copy of the petition and MFRs can be accessed on the Commission's website.

Subsection (3) of Rule 25-30.446 requires physical copies of the petition and MFRs for a limited proceeding rate increase to be placed at the utility's official headquarters, its business offices in the service area, or at the main county library, local community center, or other appropriate location. As explained above, consistent with the Commission's recent rule amendments

⁴ Rule 25-22.0406, F.A.C., Notice and Public Information on General Rate Increase Requests and Petitions for Limited Proceedings by Electric and Gas Utilities. Rule 25-22.0407, F.A.C., Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities.

decreasing the number of paper copies of applications required to be distributed, staff recommends that the requirement for placing paper copies at the locations identified in subsection (3) be deleted and replaced with a requirement in subsection (4) that the initial customer notice must include a statement that the MFRs and application can be accessed on the Commission's website.

The effect of these recommended amendments is to save costs incurred in rate cases by eliminating the cost of copying documents and providing them to various physical locations. Instead, utilities would be required to provide clear information that these documents are available for review on the Commission's website.

Rule 25-30.455, F.A.C., Staff Assistance in Rate Cases.

Subsection (7) of Rule 25-30.455, F.A.C., provides that in determining whether to grant or deny the application for a staff assisted rate case, the Commission will consider certain criteria, including whether the applicant has filed annual reports, paid applicable regulatory assessment fees, or has at least one year of experience in utility operation. As explained above concerning Rule 25-30.445, for applications for limited proceedings, and consistent with the Commission's recent amendments to Rule 25-30.457, Limited Alternative Rate Increase, staff recommends that the subsection (7) list of criteria to be considered by the Commission be deleted and replaced in subsection (1) with specific criteria that must be met in order to qualify for a staff assisted rate case.

In this regard, consistent with the amendments made to Rule 25-30.457 and the recommended amendments in this docket to Rule 25-30.445, staff recommends that certain of the subsection (7) criteria currently considered by the Commission in determining whether to grant or deny an application for staff assistance in a rate case, should not be required as part of an application for a staff assisted rate case. Specifically, a utility should not be required to have organized its books and records consistent with Rule 25-30.110, F.A.C., or have had a rate case increase within the 2-year period prior to the Commission's receipt of the application. Staff does not believe that these criteria are relevant in deciding whether a small utility should be granted a rate increase under the Rule 25-30.455. Because the rule as amended will set forth all information that is required to be filed in an application for limited proceeding, it is not necessary for a utility to file "additional relevant information" and this provision does not need to be retained.

Rule 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting

Rule 25-30.456, F.A.C., provides an alternative to a staff assisted rate case as described in Rule 25-30.455 for water and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for water service or for wastewater service, or \$600,000 or less on a combined basis. The essential difference between this rule and Rule 25-30.455 is that this rule limits the maximum increase in operating revenues to 50 percent of test year operating revenues and the Commission votes on a Proposed Agency Action recommendation establishing rates no later than 90 days from the official filing date.

Subsection (7) of Rule 25-30.456 contains the same list of criteria the Commission will consider in determining whether to grant or deny the application as found in Rule 25-30.455. For the same reasons as described above for Rule 25-30.455, staff recommends that subsection (7) of

Rule 25-30.456 be deleted and replaced in subsection (1) with specific criteria that are necessary for a utility to be eligible for staff assistance in alternative rate setting. As with Rule 25-30.455, there are certain criteria currently listed in subsection (7) of Rule 25-30.456 that staff does not believe should be required for a utility to qualify for staff assistance in an alternative rate setting. These criteria are: whether the applicant's books and records are organized consistent with Rule 25-30.110; whether the applicant has filed additional relevant information in support of eligibility; and whether the utility was granted a rate case increase within the 2-year period prior to the receipt of the application under review. As stated with regard to Rule 25-30.455, staff does not believe these provisions are relevant to whether a utility qualifies for staff assistance in alternative rate setting.

Rule 25-30.565, F.A.C., Application for Approval of New or Revised Service Availability Policy or Charges.

Subsection (1) of Rule 25-30.565, F.A.C., requires each application for a service availability policy or charges to be filed in original and six copies. Staff recommends that an original and one copy be required. This recommended amendment lowers costs to utilities by reducing filing and copying costs, while at the same time providing the number of hard copies staff has determined is needed for analyzing service availability charges.

Subsection (5) of Rule 25-30.565 duplicates the requirement found in current Rule 25-30.4345 that the utility must place copies of its application at its local office in the service area affected by the application. Staff recommends that subsection (5) be deleted for the same reasons as this same requirement is being recommended to be deleted in Rule 25-30.4345, as explained above. Subsection (2) of Rule 25-30.565 requires the utility to provide notice of its application pursuant to Rule 25-30.4345. Under the recommended amendment to Rule 25-30.4345(2)(d), utilities would be required to include a statement in the notice of application that the utility's application can be accessed on the Commission's website.

Paragraph (3)(w) of Rule 25-30.565 requires utilities to file an original and three copies of the proposed tariff sheet. Staff recommends, consistent with the other filing requirements, that an original and one copy be required, which lowers costs to utilities by reducing filing and copying costs, while at the same time providing the number of hard copies staff has determined is needed for analyzing service availability charges.

Minor Violation Rules Certification

Pursuant to Section 120.695, F.S., the agency head must certify for each rule filed for adoption whether any part of the rule is designated as a rule the violation of which would be a minor violation. Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565 are currently listed on the Commission's website as rules for which a violation would be minor because violation of the rules would not result in economic or physical harm to a person or have an adverse effect on the public health, safety, or welfare or create a significant threat of such harm. The amendments to the rules would not change their status as minor violation rules. Thus, staff recommends that the Commission certify Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565 as minor violation rules.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54(3)(b), F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. The SERC is appended as Attachment B to this recommendation.

The SERC concludes that the rules will not likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within one year after implementation. Further, the SERC economic analysis concludes that the rules will not likely have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the rules do not require legislative ratification pursuant to Section 120.541(3), F.S. In addition, the SERC states that the rules will not have an adverse impact on small business and will have no impact on small cities or counties. The SERC concludes that there will be no transactional costs likely to be incurred by individuals and entities required to comply with the requirements of the rules. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended amendments to Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565.

Conclusion

Based on the foregoing, staff recommends the Commission propose the amendment of Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, F.A.C., as set forth in Attachment A. Staff also recommends that the Commission certify Rules 25-30.025, 25-30.4345, 25-30.445, 25-30.446, 25-30.455, 25-30.456, and 25-30.565, F.A.C., as minor violation rules.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or JAPC comments are filed, the rules should be filed with the Department of State, and the docket should be closed. (Cowdery)

Staff Analysis: If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or JAPC comments are filed, the rules may be filed with the Department of State and the docket should be closed.

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25-30.025 Official Date of Filing.

(1) The “official date of filing” is the date on which the Director of the division that has been assigned the primary responsibility for the filing ~~Deputy Executive Director, Technical~~ determines the utility has filed completed sets of the minimum filing requirements (MFRs), including testimony that may be required by subsection 25-30.436(2), F.A.C., and payment of the appropriate filing fee to the Office of the Commission Clerk.

(2) The Director of the division that has been assigned the primary responsibility for the filing ~~will Deputy Executive Director, Technical shall~~ determine the official date of filing for any utility’s application and advise the applicant. The Commission will ~~shall~~ resolve any dispute regarding the official date of filing.

*Rulemaking Authority 350.127(2), 367.121(1) FS. Law Implemented 367.083 FS. History—
New 3-26-81, Formerly 25-10.12, 25-10.012, Amended 11-10-86, 11-30-93.*

1 **25-30.4345 Notice of Applications Requests for New or Revised Service Availability**
2 **Charges or Policies and Notice of Applications Requests for Allowance for Funds**
3 **Prudently Invested (AFPI) Charges.**

4 (1) This rule applies to all applications ~~requests~~ for new or revised service availability
5 charges or policies and to all applications ~~requests~~ for allowance for funds prudently invested
6 (AFPI) charges made by water and wastewater utilities, including those requests made in
7 conjunction with an application ~~a request~~ for a general rate increase.

8 ~~(2) Upon filing an application for new or revised service availability charges or policies or~~
9 ~~an application for AFPI charges, the utility shall place a copy of the application at its official~~
10 ~~headquarters and at any business offices it has in the service areas included in the request.~~
11 ~~Such copies shall be available for public inspection during the utility's regular business hours.~~
12 ~~If the utility does not have a business office in a service area included in the request, the utility~~
13 ~~shall place a copy of the application at the main county library, the local community center or~~
14 ~~other appropriate location which is within or most convenient to the service area and which is~~
15 ~~willing to accept and provide public access to said copies. The Commission may require that~~
16 ~~copies of the application be placed at other specified locations.~~

17 ~~(2)~~⁽³⁾(a) Upon filing an application for new or revised service availability charges or
18 policies or an application for AFPI charges, the utility must publish ~~shall have published~~ a
19 notice of application in a newspaper of general circulation in the service areas included in the
20 application ~~petition~~.

21 (b) Upon filing an application for new or revised service availability charges or policies or
22 an application for AFPI charges, the utility must ~~shall~~ mail or hand deliver a notice of
23 application to all persons in the service areas included in the application who have filed a
24 written request for service or who have been provided a written estimate for service within the
25 12 calendar months prior to the month the application is filed.

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- 1 (c) The Commission may require such other notice as it finds reasonably necessary.
- 2 (d) The notice of application must ~~petition shall~~ include the following:
- 3 1. The date the notice was issued;
- 4 2. A statement that the utility has filed an application ~~a petition~~ for new or revised service
- 5 availability charges or policies or AFPI charges with the Commission;
- 6 3. A statement that the requested service availability charge or AFPI charge is to pay for
- 7 growth in the utility system and the requested charges are to be paid by new, not existing
- 8 customers;
- 9 4. A statement that the utility's application can be accessed on the Commission's website
- 10 ~~of the locations where copies of the application are available for public inspection and the~~
- 11 ~~times during which inspection may be made;~~
- 12 5. A comparison of the present and proposed policy and charges;
- 13 6. The utility's address, telephone number and business hours; and
- 14 7. A statement that any comments concerning the policy or charges should be addressed to
- 15 the ~~Director of the~~ Office of Commission Clerk at 2540 Shumard Oak Boulevard, Tallahassee,
- 16 Florida 32399-0870.

17 *Rulemaking Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 367.091, 367.101,*

18 *367.111, ~~367.091~~-FS. History—New 5-27-93, Formerly 25-22.0408,_____.*

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1 **25-30.445 General Information and Instructions Required of Water and Wastewater**
2 **Utilities in an Application for a Limited Proceeding.**

3 (1) Each applicant for a limited proceeding must ~~shall~~ provide the following general
4 information to the Commission:

5 (a) The name of the applicant as it appears on the applicant's certificate and the address of
6 the applicant's principal place of business.

7 (b) The type of business organization under which the applicant's operations are
8 conducted; if the applicant is a corporation, the date of incorporation; the names and addresses
9 of all persons who own 5 percent or more of the applicant's stock; or the names and addresses
10 of the owners of the business.

11 (c) The number(s) of the Commission order(s), if any, in which the Commission most
12 recently considered the applicant's rates for the system(s) involved.

13 (d) The address within the service area where the application is available for customer
14 inspection during the time the rate application is pending.

15 (e) A statement signed by an officer of the utility that the utility will comply with the
16 noticing requirements in Rule 25-30.446, F.A.C.

17 (2) In a limited proceeding application:

18 (a) Each schedule must ~~shall~~ be cross-referenced to identify related schedules.

19 (b) Except for handwritten official company records, all data in the petition and
20 application must ~~shall~~ be typed.

21 (c) The original and ~~three seven~~ copies must ~~shall~~ be filed with the Office of Commission
22 Clerk. The copies must be clearly labeled "COPY." If the application is e-filed, the utility
23 must provide the required number of paper copies, clearly labeled "COPY," to the Office of
24 Commission Clerk within seven calendar days after electronic filing.

25 (3) A filing fee as required in Rule 25-30.020, F.A.C., must ~~shall~~ be submitted at the time
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existing law.

1 of application.

2 (4) The following minimum filing requirements must ~~shall~~ be filed with the utility's
3 application for limited proceeding for a Class A or B water or wastewater utility:

4 (a) A detailed statement of the reason(s) why the limited proceeding has been requested.

5 (b) If the limited proceeding is being requested to recover costs required by a
6 governmental or regulatory agency, provide the following:

7 1. A copy of any rule, regulation, order or other regulatory directive that has required or
8 will require the applicant to make the improvement or the investment for which the applicant
9 seeks recovery.

10 2. An estimate by a professional engineer, or other person, knowledgeable in design and
11 construction of water and wastewater plants, to establish the projected cost of the applicant's
12 investment and the period of time required for completion of construction.

13 (c) A schedule that provides the specific rate base components for which the utility seeks
14 recovery. Supporting detail must ~~shall~~ be provided for each item requested, including:

15 1. The actual or projected cost(s),

16 2. The date the item will be or is projected to be placed in service,

17 3. Any corresponding adjustments that are required as a result of adding or removing the
18 requested component(s) from rate base, which may include retirement entries; and,

19 4. Any other relevant supporting information.

20 (d) If the utility's application includes a request for recovery of plant in service,
21 accumulated depreciation and depreciation expense, supporting detail must ~~shall~~ be provided
22 by primary account as defined by the NARUC Uniform System of Accounts, in accordance
23 with Rule 25-30.110, F.A.C.

24 (e) A calculation of the weighted average cost of capital must ~~shall~~ be provided for the
25 most recent 12-month period, using the mid-point of the range of the last authorized rate of
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existing law.

1 return on equity, the current embedded cost of fixed-rate capital, the actual cost of short-term
2 debt, the actual cost of variable-cost debt, and the actual cost of other sources of capital which
3 were used in the last individual rate proceeding of the utility. If the utility does not have an
4 authorized rate of return on equity, the utility must ~~shall~~ use the current leverage formula
5 pursuant to Section 367.081(4)(f), F.S.

6 (f) If the utility is requesting recovery of operating expenses, the following information
7 must ~~shall~~ be provided:

- 8 1. A detailed description of the expense(s) requested,
- 9 2. The total cost by primary account pursuant to the NARUC Uniform System of
10 Accounts,
- 11 3. Supporting documentation or calculations; and,
- 12 4. Any allocations that are made between systems, affiliates or related parties. If
13 allocations are made, submit full detail that shows the total amount allocated, a description of
14 the basis of the allocation methodology, the allocation percentage applied to each allocated
15 cost, and the workpapers supporting the calculation of the allocation percentages.

16 (g) Calculations for all items that will create cost savings or revenue impacts from the
17 implementation of the requested cost recovery items.

18 (h) If the utility includes any other items where calculations are required, supporting
19 documentation must ~~shall~~ be filed that reflects the calculations or assumptions made.

20 (i) A calculation of the revenue increase including regulatory assessment fees and income
21 taxes, if appropriate.

22 (j) Annualized revenues for the most recent 12-month period using the rates in effect at the
23 time the utility files its application for limited proceeding and a schedule reflecting this
24 calculation by customer class and meter size.

25 (k) A schedule of current and proposed rates for all classes of customers.

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1 (l) Schedules for the most recent 12-month period showing that, without any increased
2 rates, the utility will earn below its authorized rate of return in accordance with Section
3 367.082, F.S. The schedules must ~~shall~~ consist of a rate base, net operating income and cost of
4 capital schedule with adjustments to reflect those consistent with the utility's last rate
5 proceeding.

6 (m) If the limited proceeding is being requested to change the current rate structure,
7 provide a copy of all workpapers and calculations used to calculate requested rates and
8 allocations between each customer class. The test year must ~~shall~~ be the most recent 12-month
9 period. In addition, the following schedules, ~~which are incorporated herein by reference,~~ from
10 Form PSC 1028 (12/20) ~~PSC/AFD 19-W (11/93)~~, entitled "Class A Water and/or Wastewater
11 Utilities Financial, Rate and Engineering Minimum Filing Requirements," which is
12 incorporated by reference in Rule 25-30.437, F.A.C., must ~~shall~~ be provided. ~~The schedules~~
13 ~~can be obtained from the Commission's Division of Accounting and Finance.~~

14 1. Schedule E-2, entitled "Revenue Schedule at Present and Proposed Rates," ~~is available~~
15 ~~at <http://www.flrules.org/Gateway/reference.asp?No=Ref-08251>.~~

16 2. Schedule E-14, entitled "Billing Analysis Schedules," ~~is available at~~
17 ~~<http://www.flrules.org/Gateway/reference.asp?No=Ref-08252>.~~ Only an original and one copy
18 is two copies ~~are~~ required.

19 (n) Revised tariff sheets should not be filed with the application.

20 (o) A water utility's application for limited proceeding must ~~shall~~ also include:

21 1. A copy of all customer complaints that the utility has received regarding DEP secondary
22 water quality standards during the past five years; and,

23 2. A copy of the utility's most recent secondary water quality standards test results.

24 (5) In addition to the requirements stated in subsections (1) through (3), the following

25 minimum filing requirements must ~~shall~~ be filed with the utility's application for limited
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

- 1 proceeding for a Class C water or wastewater utility:
- 2 (a) A detailed statement of the reason(s) why the limited proceeding has been requested.
- 3 (b) If the limited proceeding is being requested to recover costs required by a
- 4 governmental or regulatory agency, provide a copy of any rule, regulation, order or other
- 5 regulatory directive that has required or will require the applicant to make the improvement or
- 6 the investment for which the applicant seeks recovery.
- 7 (c) A schedule that provides the specific rate base components for which the utility seeks
- 8 recovery, if known. Supporting detail must ~~shall~~ be provided for each item requested,
- 9 including:
- 10 1. The actual or projected cost(s),
- 11 2. The date the item will be or is projected to be placed in service,
- 12 3. Any corresponding adjustments, if known, that are required as a result of adding or
- 13 removing the requested component(s) from rate base, which may include retirement entries;
- 14 and,
- 15 4. Any other relevant supporting information, if known.
- 16 (d) If the utility is requesting recovery of operating expenses, provide an itemized
- 17 description of the expense(s), including the cost and any available supporting documentation
- 18 or calculations.
- 19 (e) Provide a description of any known items that will create cost savings or revenue
- 20 impacts from the implementation of the requested cost recovery items.
- 21 (f) A calculation of the revenue increase including regulatory assessment fees and income
- 22 taxes, if applicable.
- 23 (g) Annualized revenues for the most recent 12-month period using the rates in effect at
- 24 the time the utility files its application for limited proceeding and a schedule reflecting this
- 25 calculation by customer class and meter size.

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1 (h) A Class C water utility's application for limited proceeding must ~~shall~~ also include:
2 1. A copy of all customer complaints that the utility has received regarding DEP secondary
3 water quality standards during the past five years; and,
4 2. A copy of the utility's most recent secondary water quality standards test results.
5 (6) A limited proceeding will not be allowed if: ~~In evaluating whether the utility's request~~
6 ~~is improper for a limited proceeding, the Commission will consider factors such as:~~
7 (a) ~~Whether~~ The utility's filing includes more than six ~~4~~ separate projects for which
8 recovery is sought ~~and the requested rate increase exceeds 30 percent~~. Corresponding
9 adjustments for a given project are not subject to the above limitation;
10 (b) The requested rate increase exceeds 30 percent;
11 (c) ~~(b) Whether~~ The utility has not had a rate case within in more than seven years of the
12 date the petition for limited proceeding is filed with the Commission; ~~and the requested rate~~
13 ~~increase exceeds 30 percent, or~~
14 (d) ~~(c) Whether~~ The limited proceeding is filed as the result of the complete elimination of
15 either the water or wastewater treatment process ~~and the requested rate increase exceeds 30~~
16 ~~percent.~~
17 (7) The utility must ~~shall~~ provide a statement in its filing to the Commission that ~~which~~
18 addresses whether the utility's rate base has declined or whether any expense recovery sought
19 by the utility is offset by customer growth since its most recent rate proceeding or will be
20 offset by future customer growth expected to occur within one year of the date new rates are
21 implemented.
22 *Rulemaking Authority 350.127(2), 367.121(1)(a) FS. Law Implemented 367.081, 367.0812,*
23 *367.0822, 367.121(1)(a), 367.145(2) FS. History—New 3-1-04, Amended 5-30-*
24 *17,_____.*
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1 **25-30.446 Notice of and Public Information for Application for Limited Proceeding**

2 **Rate Increase.**

3 (1) This rule applies to all applications ~~requests~~ for limited proceeding rate increases made
4 by a water or wastewater utility.

5 (2) Upon filing an application ~~a petition~~ for limited proceeding rate increase, the utility
6 must notify ~~shall mail a copy of the petition to~~ the chief executive officer of the governing
7 body of each municipality and county within the service areas included in the rate request that
8 the utility has applied for a limited proceeding rate increase. The notification must clearly
9 identify the Commission-assigned docket number and include ~~Each copy of the petition shall~~
10 ~~be accompanied by~~ a statement that a copy of the application and M~~inimum~~ F~~iling~~
11 R~~requirements~~ (MFRs) set forth in Rule 25-30.445, F.A.C., ~~when accepted by the~~
12 ~~Commission can be~~ accessed on the Commission's website ~~obtained from the petitioner upon~~
13 ~~request.~~

14 (3) ~~Within 30 days after the official date of the filing established by the Commission, the~~
15 ~~utility shall place a copy of the petition and the MFRs at its official headquarters and at all~~
16 ~~business offices it has in the service areas included in the rate request. Such copies shall be~~
17 ~~available for public inspection during the utility's regular business hours. If the utility does not~~
18 ~~have a business office in a service area included in its rate request, the utility shall place a~~
19 ~~copy of the petition and the MFRs at the main county library, the local community center or~~
20 ~~other appropriate location which is within or most convenient to the service area and which is~~
21 ~~willing to accept and provide public access to the copies. If the Commission determines that~~
22 ~~these locations will not provide adequate access, the Commission will require that copies of~~
23 ~~the petition and MFRs be placed at other specified locations.~~

24 (3)(4) Upon filing an application ~~a petition~~ and MFRs for a limited proceeding, the utility
25 must ~~shall~~ publish a notice of application in a newspaper of general circulation in the service

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1 areas included in the application ~~petition~~.

2 ~~(4)(5)~~(a) Within 50 days after the official date of filing established by the Commission, the
3 utility must ~~shall~~ provide, in writing, an initial customer notice to all customers within the
4 service areas included in the rate request and to all persons in the same service areas who have
5 filed a written request for service or who have been provided a written estimate for service
6 within the 12 calendar months prior to the month the petition is filed.

7 (b) The initial customer notice must be approved by Commission staff prior to distribution
8 and must ~~shall~~ include the following:

9 1. The date the notice is to be issued;

10 2. A statement that the utility has filed a rate request with the Commission and a statement
11 of the general reasons for the request;

12 3. A statement ~~that of the locations where copies of the MFRs and application petition are~~
13 available on the Commission's website for public inspection and the hours and days when
14 ~~inspection may be made;~~

15 4. A comparison of current rates and charges and the proposed new rates and charges;

16 5. The utility's address, telephone number, and business hours;

17 6. A statement that written comments regarding utility service or the proposed rates and
18 charges should be addressed to the Office of Commission Clerk, 2540 Shumard Oak
19 Boulevard, Tallahassee, Florida 32399-0870, and that such comments should identify the
20 docket number assigned to the proceeding;

21 7. A statement that complaints regarding service may be made to the Commission's Office
22 of Consumer Assistance and Outreach at the following toll-free number: 1(800) 342-3552; and

23 8. The docket number assigned by the Commission's Office of Commission Clerk.

24 (c) The initial customer notice must ~~shall~~ be mailed to the out-of-town address of all
25 customers who have provided the utility with an out-of-town address.

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 ~~(5)(6)~~ No less than 14 days and no more than 30 days prior to the date of a customer
2 meeting conducted by the Commission staff, the utility must ~~shall~~ provide written notice of the
3 date, time, location, and purpose of the customer meeting to all customers within the service
4 areas designated by the Commission staff. The notice must be approved by Commission staff
5 prior to distribution. The notice must ~~shall~~ be mailed to the out-of-town address of all
6 customers who have provided the utility with an out-of-town address.

7 ~~(6)(7)~~ If a proposed agency action order issued in the case is protested and any hearings
8 are subsequently held, the utility must give notice in accordance with subsection (5) of this
9 rule ~~shall give notice no less than 14 days and no more than 30 days prior to the date of each~~
10 ~~hearing held in or near a utility service area included in the rate request.~~ The utility must ~~shall~~
11 also publish ~~have published~~ in a newspaper of general circulation in the area in which such
12 hearing is to be held a display advertisement stating the date, time, location, and purpose of
13 the hearing. The notice must be approved by Commission staff prior to publication.

14 ~~(7)(8)~~ After the Commission issues an order granting or denying a rate change, the utility
15 must ~~shall~~ notify its customers of the order and any revised rates. The customer notification
16 must be first approved by Commission staff and must ~~shall~~ be distributed no later than with
17 the first bill containing any revised rates.

18 *Rulemaking Authority 350.127(2), 367.121(1)(a) FS. Law Implemented 367.0822,*
19 *367.121(1)(a) FS. History—New 3-1-04, _____.*
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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 \$300,000 or less for water service or \$300,000 or less for wastewater service, or \$600,000 or
4 less on a combined basis, may file with the Office of Commission Clerk an application
5 ~~petition the Commission~~ for staff assistance in rate applications by submitting a completed
6 staff assisted rate case application. Reasonable and prudent rate case expense is shall be
7 eligible for recovery through the rates developed by staff. Recovery of attorney fees and
8 outside consultant fees related to the rate case is shall be determined based on the
9 requirements set forth in Ssection 367.0814(3), F.S. To be eligible for staff assistance under
10 this rule:

11 (a) The applicant or utility owner must have at least one year of experience operating
12 the utility for which the rate increase is being requested;

13 (b) The utility must be in compliance with its annual report filing in accordance with
14 subsection 25-30.110(3), F.A.C.; and

15 (c) The utility must have paid all required regulatory assessment fees or must be
16 current on any approved regulatory assessment fee payment plan.

17 ~~A utility that chooses not to exercise the option of staff assistance may file for a rate increase~~
18 ~~under the provisions of rule 25-30.443, F.A.C.~~

19 (2) The appropriate application form, Commission Form PSC/AFD 2-W (11/86) (Rev.
20 06/14), entitled “Application for a Staff Assisted Rate Case,” is incorporated into this rule by
21 reference and is available at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04415>.

22 The form is also available on the Commission’s website, www.floridapsc.com. ~~may also be~~
23 ~~obtained from the Commission’s Division of Accounting and Finance, 2540 Shumard Oak~~
24 ~~Boulevard, Tallahassee, Florida 32399-0850.~~

25 (3) Upon completion of the form, the applicant shall file it with the Office of Commission
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee,
2 Florida 32399-0870.

3 (4)(a) Within 30 days of receipt of the completed application, the Commission will
4 evaluate the application and determine the applicant's eligibility for staff assistance.

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

11 (c)(b) Initially, determinations of eligibility will be conditional, pending an examination of
12 the condition of the applicant's books and records.

13 (5) Upon making its final determination of eligibility, the Commission staff will notify the
14 applicant in writing as to whether the application is officially accepted or denied. If the
15 application is accepted, a staff assisted rate case will be initiated. If the application is denied,
16 the notification of application denial will state the deficiencies in the application ~~with~~
17 ~~reference to the criteria set out in subsection (7) of this rule.~~

18 (6) The date of Commission staff's written notification to the utility that the utility is
19 eligible for staff assistance under this rule will be considered the date of official acceptance of
20 the application by the Commission. The official date of filing ~~is~~ ~~will be~~ 30 days after the
21 official acceptance of the application by the Commission staff. ~~date of the written notification~~
22 ~~to the applicant of the Commission's official acceptance of the application.~~

23 (7) ~~In determining whether to grant or deny the application, the Commission will consider~~
24 ~~the following criteria:~~

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

2 ~~(b) Whether the applicant's books and records are organized consistent with rule 25-~~
3 ~~30.110, F.A.C., so as to allow Commission personnel to verify costs and other relevant factors~~
4 ~~within the 30-day time frame set out in this rule;~~

5 ~~(c) Whether the applicant has filed annual reports;~~

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

7 ~~(e) Whether the applicant has at least one year of experience in utility operation;~~

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

10 ~~(g) Whether the utility was granted a rate case increase within the 2-year period prior to~~
11 ~~the receipt of the application under review.~~

12 ~~(7)(8) The Commission will deny the application is deemed denied if the utility does not~~
13 ~~remit the filing fee, as provided by paragraph 25-30.020(2)(f), F.A.C., within 30 days after~~
14 ~~official acceptance.~~

15 ~~(8)(9) An aggrieved applicant may request reconsideration of the application denial within~~
16 ~~15 days of receipt of notification that the application is denied. The request, which will be~~
17 ~~decided by the full Commission.~~

18 ~~(9)(10) A substantially affected person may file a petition to protest the Commission's~~
19 ~~proposed agency action in a staff assisted rate case within 21 days of issuance of the Notice of~~
20 ~~Proposed Agency Action Order, as set forth in Rule 28-106.111, F.A.C.~~

21 ~~(10)(11) A petition to protest the Commission's proposed agency action must shall~~
22 ~~conform to Rule 28-106.201, F.A.C.~~

23 ~~(11)(12) In the event of a protest of the Commission's Notice of Proposed Agency Action~~
24 ~~Order in a staff assisted rate case, the utility must shall:~~

25 (a) Provide prefiled direct testimony in accordance with the Order Establishing Procedure
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1 issued in the case. At a minimum, that testimony must ~~shall~~ adopt the Commission's Proposed
2 Agency Action Order;

3 (b) Sponsor a witness to support source documentation provided to the Commission staff
4 in its preparation of the staff audit, the staff engineering and accounting report and the staff
5 proposed agency action recommendation in the case;

6 (c) Include in its testimony the necessary factual information to support its position on any
7 issue that it chooses to take a position different than that contained in the Commission's
8 Proposed Agency Action Order; and,

9 (d) Meet all other requirements of the Order Establishing Procedure.

10 ~~(12)~~(13) Failure to comply with the dates established in the Order Establishing Procedure,
11 or to timely file a request for extension of time for good cause shown, may result in dismissal
12 of the staff assisted rate case and closure of the docket.

13 ~~(13)~~(14) In the event of a protest of the Commission's Proposed Agency Action Order in a
14 staff assisted rate case, the Commission staff will ~~shall~~:

15 (a) File prefiled direct testimony to explain its analysis in the staff proposed agency action
16 recommendation. In the event the staff wishes to alter its position on any issue, it will ~~shall~~
17 provide factual testimony to support its changed position;

18 (b) Meet all other requirements of the Order Establishing Procedure; and,

19 (c) Provide to the utility materials to assist the utility in the preparation of its testimony
20 and exhibits. This material will ~~shall~~ consist of an example of testimony filed by a utility in
21 another case, an example of testimony that would support the Proposed Agency Action Order
22 in this case, an example of an exhibit filed in another case, and examples of prehearing
23 statements and briefs filed in other cases.

24 *Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS.*

25 *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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1 | *12-16-08, 8-10-14, 2-19-17, 7-1-18, _____.*
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1 **25-30.456 Staff Assistance in Alternative Rate Setting.**

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

9 (a) The applicant or utility owner must have at least one year of experience operating the
10 utility for which the rate increase is being requested;

11 (b) The utility must be in compliance with its annual report filing in accordance with
12 subsection 25-30.110(3), F.A.C.; and

13 (c) The utility must have paid all required regulatory assessment fees or must be current
14 on any approved regulatory assessment fee payment plan.

15 (2) The ~~appropriate~~ application form, Commission Form PSC/AFD 25 (11/93) (Rev.
16 06/14), entitled “Application for Staff Assistance for Alternative Rate Setting,” is incorporated
17 into this rule by reference and is available at:

18 <http://www.flrules.org/Gateway/reference.asp?No=Ref-04414>. The form is also available on
19 the Commission’s website, www.floridapsc.com. ~~may also be obtained from the~~
20 ~~Commission’s Division of Accounting and Finance, 2540 Shumard Oak Boulevard,~~
21 ~~Tallahassee, Florida 32399-0850.~~

22 (3) Upon completion of the form, the applicant must ~~shall~~ file it with the Office of
23 Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard,
24 Tallahassee, Florida 32399-0870.

25 (4)(a) Within 30 days of receipt of the completed application, the Commission will
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1 evaluate the application and determine the applicant's eligibility for staff assistance.

2 ~~(b)(a)~~ If the Commission has received four or more alternative rate setting applications in
3 the previous 30 days; or, if the Commission has 20 or more docketed staff assisted rate cases
4 in active status on the date the application is received, the Commission will deny initial
5 evaluation of an application for staff assistance and close the docket. When an application is
6 denied under the provisions of this paragraph, the Commission staff will notify the applicant
7 of the date on which the application may be resubmitted.

8 ~~(c)(b)~~ Determinations of eligibility will be conditional, pending an examination of the
9 condition of the applicant's books and records.

10 (5) Upon making its final determination of eligibility, the Commission staff will notify the
11 applicant in writing as to whether the application is officially accepted or denied. If the
12 application is accepted, staff assistance in alternative rate setting will be initiated. If the
13 application is denied, the notification of application denial will state the deficiencies in the
14 application ~~with reference to the criteria set out in subsection (7) of this rule.~~

15 (6) The date of Commission staff's written notification to the utility that the utility is
16 eligible for staff assistance under this rule will be considered the date of official acceptance of
17 the application by the Commission. The official date of filing ~~is~~ will be 30 days after the date
18 of official acceptance of the application. ~~the written notification to the applicant of the~~
19 ~~Commission's official acceptance of the application.~~

20 ~~(7) In determining whether to grant or deny the application, the Commission will consider~~
21 ~~the following criteria:~~

22 (a) ~~Whether the applicant qualifies for staff assistance pursuant to subsection (1) of this~~
23 ~~rule;~~

24 (b) ~~Whether the applicant's books and records are organized consistent with rule 25-~~
25 ~~30.110, F.A.C., so as to allow Commission personnel to verify costs and other relevant factors~~

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1 ~~within the 30-day time frame set out in this rule;~~

2 ~~(c) Whether the applicant has filed annual reports;~~

3 ~~(d) Whether the applicant has paid applicable regulatory assessment fees;~~

4 ~~(e) Whether the applicant has at least one year of experience in utility operation;~~

5 ~~(f) Whether the applicant has filed additional relevant information in support of eligibility,~~

6 ~~together with reasons why the information should be considered; and,~~

7 ~~(g) Whether the utility was granted a rate case increase within the 2-year period prior to~~

8 ~~the receipt of the application under review.~~

9 ~~(7)~~(8) The Commission will deny the application is deemed denied if the utility does not
10 remit the filing fee, as provided by paragraph 25-30.020(2)(f), F.A.C., within 30 days after
11 official acceptance.

12 ~~(8)~~(9) An aggrieved applicant may request reconsideration of the application denial within
13 15 days of receipt of notification that the application is denied. The request which will be
14 decided by the full Commission.

15 ~~(9)~~(10) The Commission will, for the purposes of determining the amount of rate increase,
16 if any, compare the operation and maintenance expenses (O & M) of the utility to test year
17 operating revenues. The Commission will consider an allowance for return on working capital
18 using the one-eighth of O & M formula approach.

19 ~~(10)~~(11) The Commission will limit the maximum increase in operating revenues to 50
20 percent of test year operating revenues.

21 ~~(11)~~(12) The Commission will vote on a proposed agency action recommendation
22 establishing rates no later than 90 days from the official filing date as established in subsection
23 (6) of this rule.

24 ~~(12)~~(13) A substantially affected person may file a petition to protest the Commission's
25 Proposed Agency Action Order regarding a staff assisted alternative rate setting application
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1 within 21 days of issuance of the Notice of Proposed Agency Action Order as set forth in
2 ~~R~~ule 28-106.111, F.A.C.

3 ~~(13)(14)~~ A petition to protest the Commission's proposed agency action must shall
4 conform to ~~R~~ule 28-106.201, F.A.C.

5 ~~(14)(15)~~ In the event of protest of the Proposed Agency Action Order by a substantially
6 affected person, the rates established in the Proposed Agency Action Order may be
7 implemented on a temporary basis, subject to refund with interest in accordance with ~~R~~ule
8 25-30.360, F.A.C. At that time, the utility may elect to pursue rates set pursuant to the rate
9 base determination provisions of ~~R~~ule 25-30.455, F.A.C.

10 ~~(15)(16)~~ In the event of a protest, the maximum increase established in subsection ~~(10)(11)~~
11 of this rule ~~shall~~ no longer applies apply.

12 ~~(16)(17)~~ In the event of a protest of the Commission's Proposed Agency Action Order in a
13 staff assisted alternative rate setting application, the utility must shall:

14 (a) Provide prefiled direct testimony in accordance with the Order Establishing Procedure
15 issued in the case. At a minimum, that testimony must shall adopt the Commission's Proposed
16 Agency Action Order;

17 (b) Sponsor a witness to support source documentation provided to the Commission staff
18 in its preparation of the staff engineering and accounting analysis and the staff proposed
19 agency action recommendation in the case;

20 (c) Include in its testimony the necessary factual information to support its position on any
21 issue that it chooses to take a position different than that contained in the Commission's
22 Proposed Agency Action Order; and,

23 (d) Meet all other requirements of the Order Establishing Procedure.

24 ~~(17)(18)~~ Failure to comply with the dates established in the Order Establishing Procedure,
25 or to timely file a request for extension of time for good cause shown, may result in dismissal

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1 of the staff assisted alternative rate setting application and closure of the docket.
2 ~~(18)(19)~~ In the event of protest of the Commission’s Proposed Agency Action Order in a
3 staff assisted alternative rate setting application, the Commission staff will ~~shall~~:
4 (a) File prefiled direct testimony to explain its analysis in the proposed agency action
5 recommendation. In the event the staff wishes to alter its position on any issue, it will ~~shall~~
6 provide factual testimony to support its changed position;
7 (b) Meet all other requirements of the Order Establishing Procedure; and,
8 (c) Provide to the utility materials to assist the utility in the preparation of its testimony
9 and exhibits. This material will ~~shall~~ consist of an example of testimony filed by a utility in
10 another case, a sample of testimony that would support the Proposed Agency Action Order in
11 this case, an example of an exhibit filed in another case, and examples of prehearing
12 statements and briefs filed in other cases.
13 *Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS.*
14 *History—New 11-30-93, Amended 1-31-00, 12-16-08, 8-10-14, 7-1-18,_____.*

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1 **25-30.565 Application for Approval of New or Revised Service Availability Policy or**
2 **Charges.**

3 (1) An original and one copy of an ~~Each~~ application for a service availability policy or
4 charges ~~must shall~~ be filed with the Office of Commission Clerk. The copy must be clearly
5 labeled "COPY." If the application is e-filed with the Commission Clerk, the utility must file
6 one paper copy, clearly labeled "COPY," with the Commission Clerk within seven calendar
7 days after e-filing. ~~in original and six copies.~~

8 (2) Upon filing an application for a new or revised service availability charge or policy,
9 the utility ~~must shall~~ provide notice pursuant to Rule 25-30.4345, F.A.C.

10 (3) A filing fee as required in Rule 25-30.020, F.A.C., ~~must shall~~ be submitted at the time
11 of application.

12 (4) Each application ~~must shall~~ include the following, if applicable:

13 (a) A statement describing how the notice provisions have been complied with, including a
14 copy of the actual notice(s).

15 (b) The name of the applicant, the applicant's principal place of business and each local
16 office from which company operations are conducted. The applicant's name ~~must shall~~ be as it
17 appears on the certificate issued by the Commission if one has been issued.

18 (c) The number of the Commission order, if any, which previously considered the charges
19 or service availability policy for the system involved.

20 (d) A statement explaining the basis for the requested changes in charges and conditions.

21 (e) A schedule showing the original cost of any existing treatment plants, the water
22 transmission and distribution system, and the sewage collection system, by Uniform System of
23 Accounting account numbers as required by Rule 25-30.115, F.A.C., and the related capacity
24 of each system as of 90 days prior to application.

25 (f) A detailed statement of accumulated depreciation for the plant listed in paragraph (e)

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1 above as of 90 days prior to application.

2 (g) A schedule showing the number of active customers on line 90 days prior to the time of
3 application by meter size, by customer class, and the related equivalent residential connections
4 (ERC) as defined in subsection 25-30.515(8), F.A.C. Describe the method by which an ERC is
5 defined.

6 (h) A detailed statement defining the capacity of the treatment facilities in terms of ERCs
7 as used in developing the proposed service availability charges.

8 (i) A detailed statement defining the capacity of the distribution or collection system in
9 terms of ERCs as used in developing the proposed service availability charges.

10 (j) ~~Provide~~ A list of outstanding developer agreements.

11 (k) For each developer agreement state whether the agreement is designed to result in
12 contributed property, other than the approved system capacity charge, within the next 24
13 months; an estimate of the value of the contributed property to be added to the utility's books;
14 and a description of the property.

15 (l) A schedule showing total collections of contributions-in-aid-of-construction (CIAC) as
16 of 90 days prior to the date of application. Detail any prepaid CIAC by amount, the related
17 reserved ERCs, and the anticipated connection date. Reference any appropriate developer
18 agreements.

19 (m) A detailed statement of accumulated amortization of CIAC as listed in subsection (l)
20 above as of 90 days prior to application.

21 (n) Copies of approvals or permits for construction and operation of treatment facilities.

22 (o) A detailed statement by a registered professional engineer showing the cost, by
23 Uniform System of Accounting account numbers, and capacity of proposed plant expansion,
24 and a timetable showing projected construction time.

25 (p) A detailed statement by a registered professional engineer showing how the proposed
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1 construction will affect the capacity of the existing systems.

2 (q) If the expansion or plant upgrading is being undertaken to comply with the mandates of
3 local, state or federal regulatory authorities, copies of the order(s) or correspondence directing
4 the expansion or upgrading.

5 (r) A schedule showing the projected growth rate for utilization of the existing plant and
6 line capacity and future plant and line capacity.

7 (s) A summary schedule of how the proposed service availability charge was calculated.

8 (t) A schedule showing, by meter size, the cost of meters, connecting fittings, meter boxes
9 or enclosures and also showing sufficient data on labor and any other applicable costs to allow
10 the determination of an average cost for meter installation by type.

11 (u) A statement of the existing and proposed on-site and off-site main installation charges
12 or policy.

13 (v) The company's present capital structure, including the cost of debt in the present
14 capitalization. The availability and cost of other sources of financing the proposed expansion
15 or upgrading of the system also shall be given.

16 (w) ~~An original and three copies of~~ the proposed tariff sheets.

17 ~~(5) Upon filing of the application and supporting exhibits, the utility shall place copies~~
18 ~~thereof at its local office of the utility serving the area affected by the charges and conditions,~~
19 ~~and such copies shall be made available for public inspection.~~

20 ~~(5)(6)~~ Each utility must ~~shall~~ demonstrate the appropriateness of the requested service
21 availability charges and conditions.

22 *Rulemaking Authority 350.127(2), 367.121(1), 367.101 FS. Law Implemented 367.101 FS.*

23 *History—New 6-14-83, Amended 11-10-86, 11-30-93, 5-29-08 _____.*

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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: July 13, 2021

TO: Kathryn Gale Winter Cowdery, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst III, Division of Economics *S.K.G.*

RE: **Statement of Estimated Regulatory Costs** for the Proposed Adoption of Rule 25-30.025, F.A.C., Official Date of Filing; Rule 25-30-4345, Notice of Requests for New or Revised Service Availability Charges or Policies and Notice of Requests for Allowance for Funds Prudently Invested (AFPI) Charges; Rule 25-30.445, F.A.C., General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding; Rule 25-30.446, F.A.C., Notice of and Public Information for Application for Limited Proceeding Rate Increase; Rule 25-30.455, F.A.C., Staff Assistance in Rate Cases; Rule 25-30.456, Staff Assistance in Alternative Rate Setting; and Rule 25-30.565, Application for Approval of New or Revised Service Availability Policy or Charges, F.A.C.

Commission staff is proposing revisions to Rules 25-30.025, Official Date of Filing; 25-30-4345, Notice of Requests for New or Revised Service Availability Charges or Policies and Notice of Requests for Allowance for Funds Prudently Invested (AFPI) Charges; 25-30.445, General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding; 25-30.446, Notice of and Public Information for Application for Limited Proceeding Rate Increase; 25-30.455, Staff Assistance in Rate Cases; 25-30.456, Staff Assistance in Alternative Rate Setting; and 25-30.565, Application for Approval of New or Revised Service Availability Policy or Charges, Florida Administrative Code (F.A.C.). These rules are applicable to all water and wastewater utilities that are under the Commission's jurisdiction. The purposes of these proposed rule revisions are to update water and wastewater utility rules related to applications for service availability charges, allowance for funds prudently invested, limited proceedings, and staff assistance in rate cases and in alternative rate setting.

The above stated proposed revisions are intended to make these rules consistent with changes recently adopted by the Commission in other water, wastewater, electric, and natural gas rules¹ that decrease the number of paper copies that utilities are required to file or distribute for public inspection; require utilities to notify customers that applications may be accessed on the Commission's website; change the responsibility for determining the official date of filing to the

¹ Docket No. 20200193-PU, Proposed amendment of Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, and repeal of Rules 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C.; Docket No. 20200044-WS, Proposed amendment of Rule 25-30.457, F.A.C., Limited Alternative Rate Increase.

Page 2
July 13, 2021

Director of the office of primary responsibility (OPR); and clarify application filing requirements.

The attached Statement of Estimated Regulatory Costs (SERC) addresses the economic impacts and considerations required pursuant to Section 120.541, Florida Statutes (F.S.). In response to staff's data request dated June 11, 2021, the water and wastewater utilities stated that the proposed rule revisions will result in monetary savings. The SERC analysis indicates that the proposed rule amendments 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 amendments would not potentially have adverse impacts on small businesses, 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 revisions.

cc: SERC File

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS

Rules 25-30.025, 25-30.445, 25-30.446, 25-30.455, 25-30.456, 25-30.565,
and 25-30.4345, F.A.C.

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, U.S. Water Services Corporation and Utilities, Inc. of Florida stated that the revised rules will result in cost reductions to the utilities. Reducing the number of paper copies of the limited proceeding application to be filed with the Commission and not having to mail copies of the petition and MFRs to municipalities in the affected service area will save approximately \$50 to \$225 per filing. Reducing the number of copies of service availability policy or charges will result in savings of approximately \$100 to \$150 per filing. Deleting the requirement to place a copy of the service availability charges and policies in physical locations will result in savings of approximately \$100 to \$225 per filing.

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.

128 Florida water and wastewater utilities within the Commission's jurisdiction will be required to comply with the rules. The utilities will incur reduced costs from the proposed rule revisions.

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

Types of individuals to be affected or have indirect benefit would be the customers of the 128 water and wastewater utilities regulated by the Commission, serving 96,419 water customers and 59,802 wastewater customers. These customers will benefit from cost reductions.

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.

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.
- 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.

Item 4

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: September 30, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Thurmond, Norris) *ALM*
Office of the General Counsel (Trierweiler) *JSC*

RE: Docket No. 20210101-SU – Request to establish a regulatory asset to recover appellate costs, by K W Resort Utilities Corp.

AGENDA: 10/12/21 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Passidomo

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

K W Resort Utilities Corp. (KWRU or Utility) is a Class A utility providing wastewater service to 1,731 customers in Monroe County. A formal evidentiary hearing was held on May 15-17, 2018 to address KWRU's request for an increase in wastewater rates. By Order No. PSC-2018-0446-FOF-SU (Final Order), issued September 4, 2018, the Commission approved, in part, the requested increase. The approved revenue requirement represented an increase of \$1,156,895.¹

On October 3, 2018, the Office of Public Counsel (OPC) and Monroe County each filed a notice of administrative appeal to the First District Court of Appeal (First DCA).² The Commission's

¹ Order No. PSC-2018-0446-FOF-SU, issued September 4, 2018, in Docket No. 20170141-SU, *In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.*

² Document Nos. 06417-2018 and 06415-2018.

decision was affirmed *per curiam* by the First DCA, with respect to both appeals, on March 8, 2021.³

On May 18, 2021, KWRU filed a Motion for Appellate and Remand Rate Case Expense and to Treat Such Expense as a Regulatory Asset. In its motion, KWRU contends that it reasonably incurred \$28,987 defending the Final Order on appeal, and KWRU expects to incur additional rate case expense of \$7,500 associated with its motion, for a total of \$36,487. Due to the timing of its Motion and the amortization of the rate case expense approved by the Final Order, the Utility believes it would be more prudent to record the appellate rate case expense as a regulatory asset, for which KWRU would seek recovery in its next rate proceeding.

On July 7, 2021, KWRU filed an Amended Motion for Appellate and Remand Rate Case Expense and to Treat Such Expense as a Regulatory Asset (Motion),⁴ requesting similar relief as in its original motion, but increasing its incurred appellate expenses to \$47,012, with an expectation to incur additional rate case expense of \$7,500, for a total of \$54,512

This recommendation addresses the Utility's Motion for approval to establish a regulatory asset for recording appellate rate case expense. The Commission has jurisdiction pursuant to Section 367.081, Florida Statutes (F.S.).

³*Monroe County v. FPSC and KW Resort Utilities and Citizens v. FPSC and KW Resort Utilities*, 313 So. 3d 87 (Fla. 1st DCA 2021).

⁴ While KWRU's original and amended motions refer to rate case expense incurred on "remand," this appears to be in error, as the Commission's Final Order in Docket No. 20170141-SU was affirmed *per curiam*, and no remand was ordered by the First DCA. Staff's recommendation therefore discusses KWRU's Motion with respect to appellate rate case expense only.

Discussion of Issues

Issue 1: Should the Commission grant KWRU's motion for appellate rate case expense and to treat such expense as a regulatory asset?

Recommendation: The Commission should approve KWRU's request to establish a regulatory asset for the accounting purpose of recording the deferral of costs associated with appellate rate case expense. The approval to establish a regulatory asset, for accounting purposes, does not limit the Commission's ability to review the amounts, recovery method, recovery period, and other related matters for reasonableness in a future proceeding in which the regulatory asset is included. (Thurmond)

Staff Analysis: On May 18, 2021, KWRU filed a motion for appellate rate case expense.⁵ In its motion, the Utility requested recovery of its appellate rate case expense in the amount of \$36,487. On July 7, 2021, KWRU filed an amended motion for appellate rate case expense in the amount of \$54,512.⁶

To support its motion, KWRU cited decisions on remand made by the Commission for Sunshine Utilities of Central Florida (Sunshine) and Florida Cities Water Company – Lee County Division (Florida Cities).⁷ In both cases, the Utility initiated the appeal process and was the cost causer. The Commission determined that Sunshine was entitled to partially recover rate case expense based on the number of appealed issues on which the Utility had prevailed. The Commission determined that Florida Cities was entitled to fully recover rate case expense, finding that, based upon supporting documents provided, the Utility's request for additional rate case expense for the appeal and remand was prudent and reasonable. In the instant docket, OPC and Monroe County filed respective appeals to the First DCA, while KWRU did not.

The concept of deferral accounting allows utilities to defer costs due to events beyond their control and seek recovery through rates at a later time. If the subject costs are significant, the alternative would be for a company to seek a rate proceeding each time it experiences an exogenous event. The costs in the instant docket are attributed to appellate rate case expense. As the Utility is not the cost causer of these appeals, staff believes the Utility was prudent in its decision to incur rate case expense to defend itself. The Commission has previously ordered similar treatment of rate case expense associated with Utilities, Inc. of Florida's Phoenix Project and in the 2016 rate case for Utilities, Inc. of Florida.⁸

⁵ Document No. 04154-2021

⁶ Document No. 07582-2021

⁷ Order No. PSC-1994-0738-FOF-WU, issued June 15, 1994, in Docket No. 19900386-WU, *In re: Application for a Rate Increase in Marion County by Sunshine Utilities of Central Florida, Inc.* and Order No. PSC-1999-0691-FOF-SU, issued April 8, 1999, in Docket No. 19950387-SU, *In re: Application for a rate increase for North Ft. Myers Division in Lee County by Florida Cities Water Company – Lee County Division.*

⁸ Order No. PSC-2014-0521-FOF-WS, issued September 30, 2014, in Docket No. 20120161-WS, *In re: Analysis of Utilities, Inc.'s financial accounting and customer service computer system* and Order No. PSC-20160101-WS, issued August 27, 2019, in Docket No. 20160101-WS, *In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.*

Based on the above, staff recommends the authorization of a regulatory asset to record appellate rate case expense. The approval to establish a regulatory asset, for accounting purposes, does not limit the Commission's ability to review the amounts, recovery method, recovery period, and other related matters for reasonableness in a future proceeding in which the regulatory asset is included.

Issue 2: Should this docket be closed?

Recommendation: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Trierweiler)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

Item 5

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: September 30, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Wooten, Ellis, King) *TB*
Division of Accounting and Finance (Brown, Higgins, Mouring) *ALM*
Division of Economics (Kunkler, Smith II) *JGH*
Office of the General Counsel (Trierweiler) *JSC*

RE: Docket No. 20210107-EI – Petition for limited proceeding to true-up third SoBRA, by Tampa Electric Company.

AGENDA: 10/12/21 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Passidomo

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

By Order No. PSC-2017-0456-S-EI, issued on November 27, 2017, the Florida Public Service Commission (Commission) approved Tampa Electric Company's (TECO or Company) Amended and Restated Stipulation and Settlement Agreement (2017 Settlement).¹ The 2017 Settlement allows for the inclusion of solar projects that meet certain criteria into base rates through a Solar Base Rate Adjustment (SoBRA) mechanism.

¹Order No. PSC-2017-0456-S-EI, issued November 27, 2017, in Docket No. 20170210-EI, *In re: Petition for limited proceeding to approve 2017 amended and restated stipulation and settlement agreement, by Tampa Electric Company*, and Docket No. 20160160-EI, *In re: Petition for approval of energy transaction optimization mechanism, by Tampa Electric Company*.

Docket No. 20210107-EI
Date: September 30, 2021

On November 12, 2019, the Commission approved TECO's Third SoBRA in Order No. PSC-2019-0477-FOF-EI.² The Third SoBRA consisted of two solar projects, Wimauma and Little Manatee River (LMR), with a total installed capacity of 149.3 megawatts (MW). The base rates and charges that will recover the revenue requirement associated with the actual installed cost of the Third SoBRA will be determined in its pending rate case proceeding in Docket No. 20210034-EI, filed on April 9, 2021.³

On May 27, 2021, TECO filed a petition for a true-up of the Third SoBRA. The Commission has jurisdiction pursuant to Sections 366.06 and 366.076, Florida Statutes (F.S.).

²Order No. PSC-2019-0477-FOF-EI, issued on November 12, 2019, in Docket No 20190136-EI, *In re: Petition for a limited proceeding to approve third SoBRA, by Tampa Electric Company.*

³Docket No. 20210034-EI, *In re: Petition for rate increase by Tampa Electric Company*, filed April 9, 2021.

Discussion of Issues

Issue 1: What are the actual total costs for TECO's Third SoBRA projects?

Recommendation: The actual total costs for TECO's Third SoBRA projects are as listed in Table 1-3. However, Wimauma Solar, with an actual installed cost of \$1,537/kilowatt-alternative current (kW_{ac}), exceeds the \$1,500/kW_{ac} cost cap provision of the 2017 Settlement. Therefore, TECO's recovery of installed costs for Wimauma Solar should be limited to \$112,200,000 through the SoBRA Mechanism. (Wooten)

Staff Analysis: The 2017 Settlement allows TECO to recover the cost of solar projects that meet certain criteria through a base rate adjustment, using estimated costs and in-service dates with a true-up mechanism. Paragraph 6(c) of the 2017 Settlement states that the SoBRA rate adjustment for each tranche will be implemented on the earliest in-service date specified in paragraph 6(b) and based on estimated installation cost. Each SoBRA rate adjustment will subsequently be trued-up based on actual in-service dates and installation costs.

Paragraph 6(d) of the 2017 Settlement specifies a total installed capital cost cap for each project of \$1,500/kW_{ac}. LMR Solar is below the cost cap. However, Wimauma Solar, with an actual installed cost of \$1,537/kW_{ac}, exceeds the cost cap provision of the 2017 Settlement. Paragraph 6(e) of the 2017 Settlement states that if a project cost more than \$1,500/kW_{ac}, the Company can only recover the installed costs up to the cost cap. Therefore, TECO's recovery of installed costs for Wimauma Solar should be limited to \$1,500/kW_{ac} or \$112,200,000 through the SoBRA Mechanism.

In-Service Dates

Neither project entered commercial service on their estimated in-service dates. Both Wimauma Solar and LMR Solar received their environmental and construction permits about three months later than the Company expected, subsequently delaying construction on the projects until July 2019. The contractors for LMR Solar lessened the delay by increasing the number of employees on the job and working weekends. The estimated and actual in-service dates for each solar project are listed in Table 1-1.

Table 1-1
In-Service Dates for Third SoBRA

Project Name	Estimated In-Service Date	Actual In-Service Date
Wimauma Solar	January 1, 2020	April 1, 2020
LMR Solar	January 1, 2020	February 7, 2020

Source: Exhibit JSC-1 from Document No. 04308-2021

Installed Costs

Pursuant to paragraph 6(d) of the 2017 Settlement, the allowable installed costs include all types of costs that have traditionally been allowed in rate base for solar projects, including engineering,

procurement, and construction (EPC) contracts. For TECO’s Third SoBRA, the EPC contracts include major equipment (i.e., solar modules, inverters), balance of system (i.e., racking, collection cables), and development. The EPC contract accounts for the majority of the project costs followed by land, transmission interconnection, and owner’s costs. Both Wimauma and LMR were above estimated installed costs by 4% and 0.1%, respectively. Wimauma Solar’s actual installed costs varied from the estimated installed cost due to an increase in EPC cost and higher allowance for funds used during construction (AFUDC) cost due to the longer than expected construction period. LMR Solar’s actual installed costs varied from the estimated installed cost due to an increase in EPC costs. The cost variances for each category and the total cost variances are listed in Table 1-2.

**Table 1-2
 Total Installed Cost Variances by Project for Third SoBRA**

Project Name	EPC Cost (\$)	Land Cost (\$)	Transmission Cost (\$)	Owner’s Cost (\$)	Total Variance (\$)
Wimauma Solar	2,067,780	(197,320)	(1,915,202)	332,323	287,581
LMR Solar	7,269,645	0	(6,565,372)	(556,337)	147,935

Source: Exhibit SGS-1 from Document No. 04308-2021

EPC Costs

EPC costs represent approximately 89 percent of the total costs on average for the Third SoBRA. Wimauma Solar’s actual EPC costs varied from the estimate due to change orders for additional modules needed for breakage spares. LMR Solar’s actual EPC costs varied from the estimated cost due to the EPC contractor constructing the required 230 kilovolt (kV) ring bus switchyard, as opposed to TECO. The costs associated with this equipment were originally estimated in the transmission cost category but were moved to the EPC cost category. The EPC contractor also completed all permitting activities.

Land and Transmission Costs

The land and transmission costs represent approximately 12 and 4 percent of the total costs on average, respectively, and each of the solar projects were at or below the original estimated costs. LMR Solar is constructed on land obtained through a long-term lease and has no costs associated with the installed cost of the project. The largest variance for transmission cost was for the LMR project, due to previously mentioned 230 kV ring bus switchyard costs being reassigned to EPC costs.

Total Costs

Pursuant to paragraph 6(d) of the 2017 Settlement, in addition to the installed costs discussed above, TECO is eligible to include AFUDC associated with SoBRA projects, which represent approximately 6 percent of the total costs of Wimauma Solar. LMR Solar has no AFUDC cost and as it is constructed on leased land there is no land cost included in the total costs. The actual cost for each project, inclusive of the variances above and AFUDC, are listed on a total cost and per kW_{ac} cost basis in Table 1-3. Based on staff’s analysis, only LMR Solar is below the cost cap

specified in paragraph 6(d) of the 2017 Settlement of \$1,500 per kW_{ac}. As Wimauma Solar exceeds the cost cap, total cost recovery for the project is limited by the \$1,500 per kW_{ac} cost cap. Staff has reviewed the total actual costs, and they appear reasonable and consistent with the 2017 Settlement.

Table 1-3
Total Costs for Third SoBRA

Project Name	Total Cost (\$)	Total Cost (\$/kW_{ac})
Wimauma Solar	114,962,604	1,537
LMR Solar	105,247,935	1,413

Source: Exhibit SGS-1 from Document No. 04308-2021

Conclusion

The actual total costs for TECO's Third SoBRA projects are as listed in Table 1-3. However, Wimauma Solar, with an actual installed cost of \$1,537/kW_{ac}, exceeds the \$1,500/kW_{ac} cost cap provision of the 2017 Settlement. Therefore, TECO's recovery of installed costs for Wimauma Solar should be limited to \$112,200,000 through the SoBRA Mechanism.

Issue 2: What is the adjusted annual revenue requirement for TECO's Third SoBRA projects?

Recommendation: The adjusted cumulative annual revenue requirement associated with TECO's Third SoBRA Project is \$26,612,000. (Higgins)

Staff Analysis: In 2017, TECO received authorization for a framework to recover costs associated with the construction and operation of a then-conceptual series of solar generating facilities.⁴ The framework includes conditions by which the Company can petition the Commission to implement project-specific estimated annual revenue requirements, beginning on specified dates, subject to certain agreed-upon conditions.⁵ The revenue collected is subject to true-up. The actual annual revenue requirement, and its difference from the currently-approved annual revenue requirement, is the focus of staff's recommendation in this issue.

The Company is requesting the Commission approve an adjusted cumulative annual revenue requirement based on the actual installed costs of the plants associated with its previously-approved Third SoBRA Project.⁶ The adjusted cumulative annual revenue requirement for the Third SoBRA Project is specifically associated with the Wimauma Solar and LMR Solar plants.

The adjusted cumulative annual revenue requirement is formulated using the actual capital cost (Issue 1) including incentives of the Third SoBRA Project in place of the originally-estimated capital cost. All other components of the estimated annual revenue requirement calculation remain the same, e.g. operation and maintenance expense, rate of depreciation, capital structure, and tax rates.⁷ The specific true-up amounts produced by this change are the subject of Issue 3. Additionally, a separate provision contained in the 2017 Settlement addressing potential tax rate changes during the settlement period was activated.⁸

On September 12, 2019, the Florida Department of Revenue issued a Tax Information Publication (TIP) announcing the reduction in Florida's corporate income tax rate from 5.5 percent to 4.458 percent retroactively effective to January 1, 2019 (State Tax Rate Change). The State Tax Rate Change remains in effect through December 31, 2021. The Company addressed the impact of the State Tax Rate Change through a reduction to the estimated revenue requirement associated with its Third SoBRA approved on October 17, 2019. Since the Third SoBRA-related revenue requirement had yet to take effect, TECO simply amended the estimated revenue requirement to incorporate the State Tax Rate Change. The Third SoBRA-related estimated revenue requirement amount pre-tax rate change was \$26,596,000, while the estimated

⁴Order No. PSC-2017-0456-S-EI, issued November 27, 2017, in Docket No. 20170210-EI, *In re: Petition for limited proceeding to approve 2017 amended and restated stipulation and settlement agreement, by Tampa Electric Company*, and Docket No. 20160160-EI, *In re: Petition for approval of energy transaction optimization mechanism, by Tampa Electric Company*.

⁵Tampa Electric Company's 2017 Amended and Restated Stipulation and Settlement Agreement, ¶6(b).

⁶Order No. PSC-2019-0477-FOF-EI, issued November 12, 2019, in Docket No. 2019136-EI, *In re: Petition for a limited proceeding to approve third SoBRA, by Tampa Electric Company*.

⁷By Order No. PSC-2019-0524-PAA-EI, in Docket 20190203-EI, *In re: Petition for limited proceeding to reduce base rates and charges to reflect impact of the 2019 temporary state income tax rate reduction, by Tampa Electric Company*, the Commission approved an update/reduction to the Company's previously-filed Third SoBRA revenue requirement to reflect a temporary reduction in Florida's state corporate income tax rate.

⁸Tampa Electric Company's 2017 Amended and Restated Stipulation and Settlement Agreement, ¶6(a) and ¶9(b).

revenue requirement post-tax rate change, or the revenue requirement actually charged to customers, was \$26,452,000. The State Tax Rate Change as it relates to the Third SoBRA Project represents a revenue requirement reduction of \$144,000.⁹ By Order No. PSC-2019-0524-PAA-EI, the Commission found that:

Adjusting the Third SoBRA Paragraph 9(b) of the 2017 Agreement requires the Company to “adjust any SoBRAs that have not yet gone into effect to specifically account for Tax Reform.” As indicated in the Company’s petition, the annual revenue requirement for the Third SoBRA re-calculated using the 4.458 percent state corporate income tax rate is \$26,452,000, which is \$144,000 lower than the amount approved in the Third SoBRA docket. The Company’s petition showed the revenue requirement for the Third SoBRA using the new state rate. We have reviewed the calculations regarding the revenue requirement for the third SoBRA included with the Company’s petition and approve \$26,452,000 as the revised revenue requirement for the Third SoBRA.¹⁰

Table 2-1 displays the estimated plant-specific Third SoBRA annual revenue requirements, which include the effect of the State Tax Rate Change discussed above.

Table 2-1
Third SoBRA Estimated Annual Revenue Requirements¹¹

Plant	Revenue Requirement
Wimauma Solar	\$13,225,000
LMR Solar	<u>13,227,000</u>
Total	<u>\$26,452,000</u>

Sources: Order No. PSC-2019-0477-FOF-EI, Order No. PSC-2019-0524-PAA-EI, and the Prepared Direct Testimony and Exhibit of TECO witness Jose A. Aponte, page 6.

Table 2-2 displays the proposed adjusted annual Third SoBRA revenue requirements associated with each project and plant.

Table 2-2
Third SoBRA Adjusted Annual Revenue Requirements

Plant	Revenue Requirement
Wimauma Solar	\$13,367,000
LMR Solar	<u>13,245,000</u>
Total	<u>\$26,612,000</u>

Source: Prepared Direct Testimony and Exhibit of TECO witness Jose A. Aponte, pages 6-12.

⁹Order No. PSC-2019-0524-PAA-EI, issued December 17, 2019, in Docket No. 20190203-EI, *In re: Petition for limited proceeding to reduce base rates and charges to reflect impact of the 2019 temporary state income tax rate reduction, by Tampa Electric Company.*

¹⁰*Id.*

¹¹*Id.*

The proposed adjusted cumulative annual revenue requirement is \$26,612,000. The revision represents an increase of \$160,000 as compared to the previously-estimated cumulative annual revenue requirement of \$26,452,000.

Conclusion

Staff recommends the adjusted cumulative annual revenue requirement associated with TECO's Third SoBRA Project is \$26,612,000.

Issue 3: What is the appropriate true-up amount that should be reflected in the Capacity Cost Recovery Clause (CCRC), pursuant to paragraph 6(n) of the 2017 Settlement?

Recommendation: Staff recommends the appropriate net true-up amount (Total True-up) associated with the Third SoBRA Project that should be reflected in the CCRC, pursuant to subparagraph 6(n) of the 2017 Settlement, is a credit of \$4,155,553. After accounting for the preliminary Third SoBRA-related credit of \$4,069,905 in 2020, the net amount owed to customers is \$85,648. The Remaining Net True-up amount of \$85,648 has been reflected in TECO's proposed 2022 Capacity Cost Recovery rates. (Higgins)

Staff Analysis: In 2017, TECO received authorization for a framework to recover costs associated with the construction and operation of a then-conceptual series of solar generating facilities.¹² The framework includes conditions by which the Company can petition the Commission to implement project-specific estimated annual revenue requirements beginning on specified dates subject to certain agreed-upon conditions.¹³ The revenue collected is subject to true-up. The Total True-up is the focus of staff's recommendation in this issue. The relevant time period used in formulating the Total True-up is January 1, 2020, through December 31, 2021.

As discussed in Issue 1, both the capital costs and the in-service dates of the two plants comprising the Third SoBRA Project differ from those originally projected. Relative to the revenue collected, these two differences inherently produce two distinct true-ups; a cost true-up, and an in-service date or "timing" true-up. The cost true-up is the difference between the adjusted annual revenue requirement that incorporates actual capital costs and the current annual revenue requirement based on estimated capital costs from the point of (actual) plant in-service through December 31, 2021. The timing true-up simply captures the effect of matching a specific plant's assumed in-service date to its actual in-service date. The net dollar impact including interest, or Total True-up, as required by subparagraph 6(n) of TECO's 2017 Settlement is flowed through the CCRC.

¹²Order No. PSC-2017-0456-S-EI.

¹³Tampa Electric Company's 2017 Amended and Restated Stipulation and Settlement Agreement, ¶6(b).

Table 3-1 displays the components and associated amounts of the proposed Third SoBRA Project Total True-up.

Table 3-1
Third SoBRA Project Total True-up

Component	Amount (01/01/2020 through 12/31/2021)
Total Cost True-up	(\$282,112)
Total Timing True-up	4,064,011
Total Net Interest ¹⁴	373,654
Total True-up	<u>\$4,155,553</u>

Source: Prepared Direct Testimony of TECO witness Jeffery S. Chronister, Exhibit No. JSC-1, Page 1 of 4.

The Total True-up associated with TECO’s Third SoBRA is \$4,155,553. With respect to accounting for the Total True-Up on September 11, 2020, the Company filed its final Estimated/Actual testimony for calendar year 2020 which contained a preliminary credit/refund (timing true-up) associated with the Third SoBRA in the amount of \$4,069,905.¹⁵ This amount is currently embedded in TECO’s 2021 CCRC factors.¹⁶ After accounting for the preliminary credit, the outstanding amount owed to customers is \$85,648 (Remaining Net True-up).

Table 3-2 displays the components and associated amounts of the proposed Third SoBRA Project Remaining Net True-up.

Table 3-2
Third SoBRA Project Remaining Net True-up

Component	Amount
Total True-up	\$4,155,553
Preliminary Credit/Refund ¹⁷	(4,069,905)
Remaining Net True-up	<u>\$85,648</u>

Source: Prepared Direct Testimony of TECO witness Jeffery S. Chronister, Exhibit No. JSC-1, Page 1 of 4.

¹⁴“Total Net Interest” is calculated at an annual Allowance for Funds Used During Construction (AFUDC) rate of 6.46 percent, less interest expense accrued in the capacity clause at the then-prevailing monthly Commercial Paper Rate.

¹⁵Document No. 06604-2020.

¹⁶Order No. PSC-2020-0439-FOF-EI, issued November 16, 2020, in Docket No. 20200001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*, and Order No. PSC-2021-0329-PCO-EI, issued August 30, 2021, Docket No. 20210001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*.

¹⁷*Id.*

According to TECO witness Chronister at the time of filing the instant petition, the Company's intent was to include the Remaining Net True-up balance of the Total True-Up in its 2022 CCRC rate request, which was filed on September 3, 2021.¹⁸ Staff has confirmed the remaining balance of the Total True-Up has been included in TECO's requested 2022 CCRC rates.

Conclusion

Staff recommends the appropriate Total True-up associated with the Third SoBRA Project that should be reflected in the CCRC, pursuant to subparagraph 6(n) of the 2017 Settlement, is a credit of \$4,155,553. After accounting for the preliminary Third SoBRA-related credit of \$4,069,905 in 2020, the Remaining Net True-up amount owed to customers is \$85,648. The Remaining Net True-up amount of \$85,648 has been reflected in TECO's proposed 2022 Capacity Cost Recovery rates.

¹⁸Document No. 10086-2021.

Issue 4: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Trierweiler)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

Item 6

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: September 30, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Lewis, Ramos) *TB*
Division of Accounting and Finance (Blocker, Norris) *ALM*
Division of Economics (Bethea) *JGH*
Office of the General Counsel (Stiller) *JSC*

RE: Docket No. 20210043-WU – Application to transfer facilities and water Certificate No. 652-W in Marion County from Arma Water Service, LLC to Leighton Estates Utilities, LLC.

AGENDA: 10/12/21 – Regular Agenda – Proposed Agency Action for Issues 2 through 4 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

Arma Water Services, LLC (Arma or Seller) is a Class C water utility providing service to approximately 78 residential customers in Marion County. Wastewater service is provided by individually owned septic tanks. Arma is located in the St. Johns River Water Management District. According to the Arma's 2020 Annual Report, Arma had gross revenues of \$31,112 and a net operating loss of \$10,826.

Docket No. 20210043-WU

Date: September 30, 2021

The Florida Public Service Commission (Commission) granted an original water certificate to Arma in 2010.¹ On February 22, 2021, Leighton Estates Utilities, LLC (Buyer or Utility) filed an application for the transfer of Certificate No. 652-W from Arma to the Utility in Marion County.

This recommendation addresses the transfer of the water system and Certificate No. 652-W, the appropriate net book value of the system for transfer purposes, and the need for an acquisition adjustment. The Commission has jurisdiction pursuant to Sections 367.071 and 367.081, Florida Statutes (F.S.).

¹Order No. PSC-10-0552-PAA-WU, issued September 3, 2010, in Docket No. 20090366-WU, *In re: Application for certificate to operate water utility in Marion County by Arma Water Service, LLC.*

Discussion of Issues

Issue 1: Should the transfer of Certificate No. 652-W from Arma Water Service, LLC to Leighton Estates Utilities, LLC be approved?

Recommendation: Yes. The transfer of the water system and Certificate No. 652-W is in the public interest and should be approved effective the date of the Commission's vote. The resultant order should serve as the Buyer's certificate and should be retained by the Buyer. The existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs pursuant to Rule 25-30.475, Florida Administrative Code (F.A.C.). The Utility is current with respect to annual reports and Regulatory Assessment Fees (RAFs) through December 31, 2020, and the Buyer should be responsible for all future years. (Lewis, Bethea, Blocker)

Staff Analysis: On February 22, 2021, the Buyer filed an application for the transfer of Certificate No. 652-W from Arma. The application is in compliance with Section 367.071, F.S., and Commission rules concerning applications for transfer of certificates. The sale to the Buyer occurred on January 1, 2021, contingent upon Commission's approval, pursuant to Section 367.071(1), F.S.

Noticing, Territory, and Land Ownership

The Utility provided notice of the application pursuant to Section 367.071, F.S., and Rule 25-30.030, F.A.C. No objections to the transfer were filed, and the time for doing so has expired. The application contains a description of the service territory, which is appended to this recommendation as Attachment A. The Buyer provided a copy of a warranty deed executed January 4, 2021, as evidence that the Utility has rights to long-term use of the land upon which the treatment facilities are located pursuant to Rule 25-30.037(2)(s), F.A.C.

Purchase Agreement and Financing

Pursuant to Rule 25-30.037(2)(g), (h), and (i), F.A.C., the application contains a statement regarding financing and a copy of the Purchase Agreement, which includes the purchase price, terms of payment, and a list of the assets purchased. There are no guaranteed revenue contracts, developer agreements, customer advances, leases, or debt of Arma that must be disposed of with regard to the transfer. The customer deposits were forwarded to the Buyer and credited to customer accounts. According to the Purchase Agreement, the total purchase price for the water assets is \$172,000. According to the Buyer, the sale took place on January 1, 2021, subject to Commission approval, pursuant to Section 367.071(1), F.S.

Facility Description and Compliance

The Utility's water treatment plant is rated at 65,800 gallons per day. Raw water is drawn from a single well and treated by hypochlorination and is stored in a 5,000 gallon hydropneumatic tank before distribution. The Florida Department of Environmental Protection (DEP) conducted an inspection of the water treatment facility on September 11, 2020, and it was found to be in compliance with the DEP's rules and regulations.

Financial and Technical Ability

Pursuant to Rule 25-30.037(2)(l) and (m), F.A.C., the Utility provided statements describing its financial and technical ability to provide water service. As referenced in the transfer application, the Buyer will fulfill the commitments, obligations, and representation of the seller with regards to utility matters. Staff reviewed the financial statements of Florida Utility Services 1, LLC, owned and managed by Mr. Michael Smallridge, and believes the Buyer has documented adequate resources to support the Utility's water operations. Also referenced in the transfer application and specified in previous dockets, Mr. Smallridge was appointed to the Citrus County Water and Wastewater Authority, the local regulatory body for Citrus County, where the Buyer served for seven years. Mr. Smallridge also served as the "Class C" representative for the Legislative Study Committee for Investor-Owned Water and Wastewater Utility Systems in 2013. Mr. Smallridge attends yearly training classes through the Florida Rural Water Association and completed the NARUC Utility Rate School in 2001. Further, Mr. Smallridge is the owner and manager of 15 Class C water and wastewater facilities that are regulated by the Commission, and the Commission recently acknowledged Mr. Smallridge's appointed receivership to Sun River Utilities, Inc.² Based on the above, staff recommends that the Buyer has demonstrated the technical and financial ability to provide service to the existing service territory.

Rates and Charges

Arma's rates and charges were last approved in its application for an original water certificate in Marion County in 2010.³ The rates were subsequently amended by one price index rate adjustment in January 2021. Rule 25-9.044(1), F.A.C., provides that, in the case of a change of ownership or control of a utility, the rates, classifications, and regulations of the former owner must continue unless authorized to change by this Commission. Therefore, staff recommends that Arma's existing rates and charges as shown on Schedule No. 2 remain in effect, until a change is authorized by this Commission.

With respect to miscellaneous service charges, the Utility has requested to implement two additional miscellaneous service charges. In addition, staff recommends that the existing miscellaneous service charges be updated to reflect the recent amendment to Rule 25-30.460, F.A.C., pertaining to miscellaneous service charges. Miscellaneous service charges are addressed in Issue 4 and shown on Schedule No. 3.

Regulatory Assessment Fees (RAFs) and Annual Reports

Staff has verified that the Utility is current on the filing of annual reports and RAFs through December 31, 2020. The Buyer should be responsible for filing the Utility's annual reports and paying RAFs for 2021 and all future years.

²Order No. PSC-2021-0316-FOF-WS, issued August 23, 2021, in Docket No. 20210038-WS, *In re: Joint notice of abandonment of water and wastewater systems in Charlotte and DeSoto Counties by Sun River Utilities, Inc. and North Charlotte Waterworks, Inc., effective February 21, 2021.*

³Order No. PSC-10-0552-PAA-WU, issued September 3, 2010, in Docket No. 20090366-WU, *In re: Application for certificate to operate water utility in Marion County by Arma Water Service, LLC. in Broward County, Florida.*

Conclusion

Based on the foregoing, staff recommends that the transfer of the water system and Certificate No. 652-W is in the public interest and should be approved effective the date of the Commission's vote. The resultant order should serve as the Buyer's certificate and should be retained by the Buyer. The existing rates and charges should remain in effect until a change is authorized by the Commission in a subsequent proceeding. The tariffs reflecting the transfer should be effective for services rendered or connections made on or after the stamped approval date on the tariffs pursuant to Rule 25-30.475, F.A.C. The Buyer should be responsible for filing annual reports and paying RAFs for 2021 and all future years.

Issue 2: What is the appropriate net book value for the Leighton Estates Utilities, LLC water system for transfer purposes, and should an acquisition adjustment be approved?

Recommendation: The appropriate net book value (NBV) of the water system for transfer purposes is \$274,981, as of January 1, 2021. Within 90 days of the date of the final order, the Utility should be required to notify the Commission in writing that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in the Utility's 2021 Annual Report when filed. (Blocker)

Staff Analysis: Rate base has never been established for the Utility. The purpose of establishing NBV for transfers is to determine whether an acquisition adjustment should be approved. The NBV does not include normal ratemaking adjustments for used and useful plant or working capital. The Utility's NBV has been updated to reflect balances as of January 1, 2021. Staff's recommended NBV is shown on Schedule No. 1.

Utility Plant in Service (UPIS)

The Utility's general ledger reflects a UPIS balance of \$372,047 as of January 1, 2021. Staff reviewed UPIS additions since December 31, 2010, and found that both services and meters and meter installations were overstated by \$7,812 and \$1,958 respectively. As a result, UPIS should be decreased by \$9,770. Therefore, staff recommends a UPIS balance of \$362,277 as of January 1, 2021.

Land

The Utility's general ledger reflects a land balance of \$30,000 as of January 1, 2021. Staff verified the warranty deed from October 27, 2009, and confirmed that there have been no additions to land since December 31, 2010. Therefore, staff recommends a land balance of \$30,000.

Accumulated Depreciation

The Utility's general ledger reflects an accumulated depreciation balance of \$121,439 as of January 1, 2021. In accordance with Rule 25-30.140, F.A.C., staff calculated the appropriate accumulated depreciation balance to be \$109,809. As a result, accumulated depreciation should be decreased by \$11,630.

Contributions-in-Aid-of-Construction (CIAC) and Accumulated Amortization of CIAC

The Utility's general ledger reflects a CIAC balance of \$20,000 and an accumulated amortization of CIAC balance of \$3,456 as of January 1, 2021. Staff was only able to confirm eight of the 20 new customers claimed by the Utility, and as such decreased the CIAC balance by \$12,000. Staff also decreased the accumulated amortization of CIAC balance by \$2,943 based on the reduction of CIAC above. Therefore, staff recommends a CIAC balance of \$8,000 and an accumulated amortization of CIAC balance of \$513, as of January 1, 2021.

Net Book Value

The Utility's general ledger reflects a NBV of \$264,064 as of January 1, 2021. Based on the adjustments described above, staff recommends a NBV of \$274,981. Staff's recommended NBV and the National Association of Regulatory Utility Commissioners, Uniform System of Accounts (NARUC USOA) balances for UPIS and accumulated depreciation are shown on Schedule No. 1, as of January 1, 2021. A negative acquisition adjustment should be recognized for rate making purposes and is addressed in Issue 3.

Conclusion

Based on the above, staff recommends that the NBV of the Utility's water system for transfer purposes is \$274,981, as of January 1, 2021. Within 90 days of the date of the final order, the Buyer should be required to notify the Commission in writing that it has adjusted its books in accordance with the Commission's decision. The adjustments should be reflected in the Utility's 2021 Annual Report when filed.

Issue 3: Should an acquisition adjustment be recognized for ratemaking purposes?

Recommendation: Yes. Pursuant to Rule 25-30.0371(3), F.A.C., a negative acquisition adjustment of \$47,985 should be recognized for ratemaking purposes. Beginning with the date of the issuance of the order approving the transfer, half of the negative acquisition adjustment should be amortized over a 7-year period and the other half amortized over the remaining life of the Utility's assets or 20 years, in accordance with Rule 25-30.0371(4)(b)1, F.A.C. (Blocker)

Staff Analysis: An acquisition adjustment results when the purchase price differs from the original cost of the assets' NBV, adjusted to the time of the acquisition. Pursuant to Rule 25-30.0371(3), F.A.C., if the purchase price is equal to or less than 80 percent of NBV, a negative acquisition adjustment shall be included in rate base and will be equal to 80 percent of NBV, less the purchase price. Pursuant to Rule 25.30.0371(4)(b)1., F.A.C., if the purchase price is greater than 50 percent of net book value, half of the negative acquisition adjustment should be amortized over a 7-year period and the other half amortized over the remaining life of the Utility's assets. The calculation of the acquisition adjustment is shown in Table 3-1. Staff estimates the remaining life of the assets to be 20 years.

Table 3-1
Calculation of Negative Acquisition Adjustment

Net book value as of January 1, 2021	\$274,981
80 percent of net book value	\$219,985
Purchase price	\$172,000
Negative acquisition adjustment	\$47,985

Therefore, pursuant to Rule 25-30.0371(3), F.A.C., staff recommends a negative acquisition adjustment of \$47,985 be recognized for ratemaking purposes. Beginning with the date of issuance of the order approving the transfer, one half of the negative acquisition adjustment should be amortized over a 7-year period and the other half amortized over the remaining life of the Utility's assets, or 20 years, in accordance with Rule 25-30.0371(4)(b)1, F.A.C.

Issue 4: Should the miscellaneous service charges be revised to reflect Leighton Estates Utilities, LLC's request for late payment and non-sufficient funds (NSF) charges, as well as to conform to amended Rule 25-30.460, F.A.C.?

Recommendation: Yes. The Utility's request to add a \$5.00 late payment charge and NSF charges to its miscellaneous service charges should be approved. In addition, staff recommends the miscellaneous service charges be revised to conform to the recent amendment to Rule 25-30.460, F.A.C. The recommended miscellaneous service charges are shown on Schedule No. 3. The Utility should be required to file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice and the notice has been received by customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Bethea)

Staff Analysis:

Late Payment Charge

The Utility is requesting a \$5.00 late payment charge to recover the cost of labor, supplies, and postage associated with processing late payment notices. The Utility currently does not have a late payment charge. The purpose of this charge is not only to provide an incentive for customers to make timely payment, thereby reducing the number of delinquent accounts, but also to place the cost burden of processing delinquent accounts solely upon those who are cost causers. Section 367.091, F.S., authorizes the Commission to establish, increase, or change a rate or charge other than monthly rates or service availability charges.

The Utility calculated the actual costs for its late payment charges to be \$5.33. The Utility indicated that it will take approximately 5 minutes per account to research, compile, and produce late notices. The delinquent customer accounts will be processed by the administrative employee, which results in labor cost of \$4.68 ($\$58.50 \times 0.08\text{hr}$).⁴ In addition, the Utility included material cost of \$.65 for paper, envelopes, and postage, which results in total costs of \$5.33 ($\$4.68 + \$.65$). This is consistent with prior Commission decisions where the Commission has allowed 5-15 minutes per account per month for the administrative labor associated with processing delinquent customer accounts.⁵ However, the Utility is requesting only a charge of \$5.00. The Utility's calculation for its actual costs associated with a late payment charge is shown in Table 4-1. The Utility's proposed late payment charge is reasonable and should be approved.

⁴Labor Rate (Billing Manager - \$25.03 + Customer Service Representative - \$16.79 + Billing Representative - \$16.68 = \$58.50)

⁵Order Nos. PSC-16-0041-TRF-WU, issued January 25, 2016, in Docket No. 20150215-WU, *In re: Request for approval of tariff amendment to include miscellaneous service charges for the Earlene and Ray Keen Subdivisions, the Ellison Park Subdivision and the Lake Region Paradise Island Subdivision in Polk County, by Keen Sales, and Utilities, Inc.* and PSC-15-0569-PAA-WS, issued December 16, 2015, in Docket No. 20140239-WS, *In re: Application for staff-assisted rate case in Polk County by Orchid Springs Development Corporation.*

Table 4-1
Late Payment Charge Cost Justification

Activity	Cost
Labor	\$4.68
Materials	\$0.12
Postage	<u>\$0.53</u>
Total Cost	<u>\$5.33</u>

Source: Utility's cost justification documentation

Non-Sufficient Funds Charge (NSF)

Section 367.091, F.S., requires that rates, charges, and customer service policies be approved by the Commission. Staff recommends that the Utility should be authorized to collect NSF charges consistent with Section 68.065, F.S., which allows for the assessment of charges for the collection of worthless checks, drafts, or orders of payment. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:

- (1) \$25, if the face value does not exceed \$50;
- (2) \$30, if the face value exceeds \$50 but does not exceed \$300;
- (3) \$40, if the face value exceeds \$300; or
- (4) 5 percent of the face amount of the check, whichever is greater.

Approval of NSF charges is consistent with prior Commission decisions.⁶ Furthermore, NSF charges place the cost on the cost-causer, rather than requiring that the costs associated with the return of the NSF checks be spread across the general body of the ratepayers. As such, the Utility should be authorized to collect NSF charges.

Amended Rule 25-30.460, F.A.C., Application of Miscellaneous Service Charges

Effective June 24, 2021, Rule 25-30.460, F.A.C., was amended to remove initial connection and normal reconnection charges.⁷ The definitions for initial connection charges and normal reconnection charges were subsumed in the definition of the premises visit charge. It was envisioned that the utility tariffs would be reviewed by staff on a prospective basis to ensure conformance with the amended rule. The Utility's miscellaneous service charges consist of initial connection and normal reconnection charges. These charges are the same as the premises visit charge. Therefore, staff believes it is appropriate at this time to remove the initial

⁶Order Nos. PSC-2020-0086-PAA-WU, issued March 24, 2020, in Docket No. 20190114-WU, *In re: Application for staff-assisted rate case in Alachua County, and request for interim rate increase by Gator Waterworks, Inc.*; PSC-2018-0334-PAA-WU, issued June 28, 2018, in Docket No. 20170155-WU, *In re: Application for grandfather water certificate in Leon County and application for pass through increase of regulatory fees, by Seminole Waterworks, Inc.*; PSC-14-0198-TRF-SU, issued May 2, 2014, in Docket No. 20140030-SU, *In re: Request for approval to amend Miscellaneous Service charges to include all NSF charges by Environmental Protection Systems of Pine Island, Inc.*; and PSC-13-0646-PAA-WU, issued December 5, 2013, in Docket No. 20130025-WU, *In re: Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.*

⁷Order No. PSC-2021-0201-FOF-WS, issued June 4, 2020, in Docket No. 20200240-WS, *In re: Proposed amendment of Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges.*

connection and normal reconnection charges and update the definition for the premises visit charge to comply with amended Rule 25-30.460, F.A.C.

Conclusion

The Utility's request to add a \$5.00 late payment charge and NSF charges to its miscellaneous service charges should be approved. In addition, staff recommends the miscellaneous service charges be revised to conform to the recent revision to Rule 25-30.460, F.A.C. The recommended miscellaneous service charges are shown on Schedule No. 3. The Utility should be required to file a proposed customer notice to reflect the Commission-approved charges. The approved charges should be effective on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved charge should not be implemented until staff has approved the proposed customer notice and the notice has been received by customers. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 5: Should this docket be closed?

Recommendation: Yes. If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed administratively upon Commission staff's verification that the revised tariff sheets have been filed, the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision, and proof that appropriate noticing has been done pursuant to Rule 25-30.4345, F.A.C. (Stiller)

Staff Analysis: If no protest to the proposed agency action is filed by a substantially affected person within 21 days of the date of the issuance of the order, a consummating order should be issued and the docket should be closed administratively upon Commission staff's verification that the revised tariff sheets have been filed, the Buyer has notified the Commission in writing that it has adjusted its books in accordance with the Commission's decision, and proof that appropriate noticing has been done pursuant to Rule 25-30.4345, F.A.C.

LEIGHTON ESTATES UTILITIES, LLC
WATER SERVICE AREA
MARION COUNTY

A portion of Section 23, Township 16 South, Range 21 East, more particularly described as follow:

The SW quarter of the NE quarter;

The NW quarter of the SE quarter;

The North 600 feet of the SW quarter of the SE quarter.

FLORIDA PUBLIC SERVICE COMMISSION

Authorizes

**Leighton Estates Utilities, LLC
Pursuant to
Certificate Number 652-W**

To provide water services in Marion County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Order of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, concealed or revoked by Order of the Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-10-0552-PAA-WU	09/03/2010	20090366-WU	Original Certificate
*	*	20210043-WU	Transfer

**Leighton Estates Utilities, LLC
Water System**

Schedule of Net Book Value as of January 1, 2021

<u>Description</u>	<u>Balance Per Utility</u>	<u>Adjustments</u>		<u>Staff</u>
Utility Plant in Service	\$372,047	(\$9,770)	A	\$362,277
Land & Land Rights	30,000	0		30,000
Accumulated Depreciation	(121,439)	11,630	B	(109,809)
CIAC	(20,000)	12,000	C	(8,000)
Amortization of CIAC	<u>3,456</u>	<u>(2,943)</u>	D	<u>513</u>
Total	<u>\$264,064</u>	<u>\$10,917</u>		<u>\$274,981</u>

**Leighton Estates Utilities, LLC
Water System**

Explanation of Adjustments to Net Book Value as of January 1, 2021

Explanation	Amount
A. UPIS To remove plant additions.	(\$9,770)
B. Accumulated Depreciation To reflect the appropriate amount of accumulated depreciation.	11,630
C. CIAC To remove new customer additions.	12,000
D. Accumulated Amortization of CIAC To reflect the appropriate amount of accumulated amortization of CIAC.	<u>(2,943)</u>
Total Adjustments to Net Book Value as of January 1, 2021.	<u>\$10,917</u>

**Leighton Estates Utilities, LLC
Water System**

Schedule of Staff Recommended Account Balances as of January 1, 2021

Account No.	Description	UPIS	Accumulated Depreciation
301	Organization	\$6,200	\$1,628
304	Structures & Improvements	12,600	4,235
307	Wells & Springs	24,700	7,471
309	Supply Mains	6,300	2,067
311	Pumping Equipment	19,800	5,676
320	Water Treatment Equipment	36,480	22,029
330	Distribution Reservoirs	2,400	763
331	Transmission and Distribution Mains	231,997	56,761
333	Services	12,200	3,660
334	Meter and Meter Install.	5,600	3,034
339	Other Plant and Misc.	1,800	945
340	Office Furniture & Equip.	<u>2,200</u>	<u>1,540</u>
		<u>\$362,277</u>	<u>\$109,809</u>

**Leighton Estates Utilities, LLC.
Monthly Water Rates**

Residential and General Service

Base Facility Charge by Meter Size

5/8" x 3/4"	\$22.00
1"	\$55.00
1 1/2"	\$110.00
2"	\$176.00

Charge Per 1,000 gallons	\$1.66
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Initial Customer Deposits

Residential and General Service

5/8" x 3/4"	\$50.00
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Service Availability Charges

Customer Connection (Tap-in) Charge

5/8" x 3/4" meter service	\$875.00
1" meter service	\$875.00
1 1/2" meter service	\$875.00
2" meter service	\$875.00
Over 2" meter service	\$875.00

Meter Installation Charge

5/8" x 3/4"	\$125.00
All other meter sizes"	Actual Cost

Leighton Estates Utilities, LLC.

**Existing
Miscellaneous Service Charges**

	<u>Normal Hours</u>	<u>After Hours</u>
Initial Connection Charge	\$25.00	\$50.00
Normal Reconnection Charge	\$25.00	\$50.00
Violation Reconnection Charge	\$25.00	\$50.00
Premises Visit Charge (in lieu of disconnection)	\$25.00	\$50.00

**Staff Recommended
Miscellaneous Service Charges**

	<u>Normal Hours</u>	<u>After Hours</u>
Premises Visit Charge	\$25.00	\$50.00
Violation Reconnection Charge	\$25.00	\$50.00
Late Payment Charge		\$5.00
NSF Charges		Pursuant to Section 68.065, F.S.

Item 7

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: September 30, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Guffey) *JGH*
Office of the General Counsel (Sandy, Crawford) *JSC*

RE: Docket No. 20210147-GU – Joint petition for approval of swing service rider rates for January through December 2022, by Florida Public Utilities Company, Florida Public Utilities Company-Indiantown Division, Florida Public Utilities Company-Fort Meade, and Florida Division of Chesapeake Utilities Corporation.

AGENDA: 10/12/21 – Regular Agenda – Tariff Filing – Participation is at the Commission’s Discretion

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 10/31/21 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

On August 31, 2021, Florida Public Utilities Company, Florida Public Utilities Company-Indiantown Division, Florida Public Utilities Company-Fort Meade, and Florida Division of Chesapeake Utilities Corporation (jointly, Companies) filed a petition for approval of revised Swing Service Rider Rates and associated tariffs for the period January 2022 through December 2022. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission suspend the Companies' proposed revised Swing Service Rider Rates and associated tariffs for the period January through December 2022?

Recommendation: Yes. Staff recommends that the Companies' proposed revised Swing Service Rider Rates and associated tariffs for the period January through December 2022 be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the tariff proposals. (Guffey)

Staff Analysis: Staff recommends that the Companies' proposed revised Swing Service Rider Rates and associated tariffs for the period January through December 2022 be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the tariff proposals.

Pursuant to Section 366.06(3), F.S., the Commission may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the utility requesting such a change, a reason, or written statement of good cause for doing so within 60 days. Staff believes that the reason stated above is a good cause consistent with the requirement of Section 366.06(3), F.S.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending the Commission decision on the proposed revised tariffs. (Sandy)

Staff Analysis: This docket should remain open pending the Commission decision on the proposed revised tariffs.

Item 8

FILED 9/30/2021
DOCUMENT NO. 11701-2021
FPSC - COMMISSION CLERK

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: September 30, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Hampson) *JGH*
Office of the General Counsel (Sandy, Crawford) *JSC*

RE: Docket No. 20210150-GU – Joint petition for approval to implement gas reliability infrastructure program (GRIP) cost recovery factors for January 2022 through December 2022 by Florida Public Utilities Company, Florida Public Utilities Company-Fort Meade and the Florida Division of Chesapeake Utilities Corporation.

AGENDA: 10/12/21 – Regular Agenda – Tariff Filing – Participation is at the Commission’s Discretion

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 10/31/21 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

On August 31, 2021, Florida Public Utilities Company, Florida Public Utilities Company-Fort Meade, and Florida Division of Chesapeake Utilities Corporation (jointly, Companies) filed a petition for approval of revised gas reliability infrastructure program (GRIP) cost recovery factors and associated tariffs for the period January 2022 through December 2022. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission suspend the Companies' proposed revised GRIP cost recovery factors and associated tariffs for the period January through December 2022?

Recommendation: Yes. Staff recommends that the Companies' proposed revised GRIP cost recovery factors and associated tariffs for the period January through December 2022 be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the tariff proposals. (Hampson)

Staff Analysis: Staff recommends that the Companies' proposed revised GRIP cost recovery factors and associated tariffs for the period January through December 2022 be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the tariff proposals.

Pursuant to Section 366.06(3), F.S., the Commission may withhold consent to the operation of all or any portion of a new rate schedule, delivering to the utility requesting such a change, a reason, or written statement of good cause for doing so within 60 days. Staff believes that the reason stated above is a good cause consistent with the requirement of Section 366.06(3), F.S.

Issue 2: Should this docket be closed?

Recommendation: No. This docket should remain open pending the Commission decision on the proposed revised tariffs. (Sandy)

Staff Analysis: This docket should remain open pending the Commission decision on the proposed revised tariffs.

Item 9

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: September 30, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Osborn, Crawford) *JSC*
Division of Engineering (Kistner, Ellis, King, Thompson) *TB*
Division of Accounting and Finance (Norris, Thurmond) *ALM*
Division of Economics (Bruce, Hudson) *JGH*

RE: Docket No. 20200226-SU – Application for certificate to provide wastewater service in Charlotte County, by Environmental Utilities, LLC.

AGENDA: 10/12/21 – Regular Agenda – Request for Oral Argument (Issue 1), Motion for Partial Summary Final Order (Issue 2), Motion to Dismiss Application (Issue 3) – Oral Argument Requested for Motion for Partial Summary Final Order and Not Requested for Motion to Dismiss - Participation is at the Commission's Discretion

COMMISSIONERS ASSIGNED: ~~All Commissioners~~ *Clark, La Rosa, Passidomo*

PREHEARING OFFICER: La Rosa *At 9/30/21*

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On October 13, 2020, Environmental Utilities, LLC (EU or Utility) filed its application for an original wastewater certificate in Charlotte County (County). The proposed service area includes the barrier islands of Little Gasparilla Island, Don Pedro Island, and Knight Island. With its application, EU filed a petition for temporary waiver of portions of Rule 25-30.033, Florida Administrative Code (F.A.C.), so that the Utility's initial rates and charges might be set at a date subsequent to the granting of the certificate of authorization. The petition for temporary rule waiver was denied by Order No. PSC-2021-0066- PAA-SU, issued February 2, 2021.

Docket No. 20200226-SU

Date: September 30, 2021

Pursuant to Rule 25-30.030, F.A.C., EU both published notice in the proposed service area, and provided notice by mail to property owners in the service area EU proposes to serve. Timely objections to EU's application have been filed with the Commission; therefore, this matter is set for an administrative hearing on February 8-9, 2022, by Order No. PSC-2021-0323-PCO-SU, issued August 25, 2021. On January 19, 2021, Mr. Guy Hurst filed a Motion to Dismiss the Application (Motion to Dismiss). EU responded to this Motion to Dismiss on January 20, 2021.

On August 9, 2021, EU filed a Motion for Partial Summary Final Order (Motion) regarding the need for service. Concurrent with the Motion, EU filed a Request for Oral Argument on its Motion. Two parties, Ms. Linda Cotherman and Palm Island Estates Association, Inc. (Palm Island), timely filed responses to EU's Motion.

Staff addresses EU's request for Oral Argument and Motion in Issues 1 and 2, respectively, and Mr. Hurst's Motion to Dismiss in Issue 3. The Commission has jurisdiction pursuant to Sections 367.011, 367.031, 367.045, and 367.081, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Utility's request for oral argument be granted?

Recommendation: No, staff recommends that the pleadings are sufficient on their face for the Commission to render a decision on the Motion for Partial Summary Final Order (Issue 2) and Motion to Dismiss (Issue 3). However, if oral argument would aid the Commission in evaluating the issues to be decided, the parties should be allowed five (5) minutes each for oral argument for the respective pending motions. (Osborn, Crawford)

Staff Analysis:

Rule 25-22.0021(3), F.A.C., specifies that informal participation is not permitted on dispositive motions, and participation on such is governed by Rule 25-22.0022, F.A.C. Rule 25-22.0022(7), F.A.C., states that oral argument at an Agenda Conference will only be entertained for dispositive motions, such as a motion for summary final order or a motion to dismiss. The Commission may grant oral argument if the request: 1) is contained in a separate document; 2) is filed concurrently with the motion on which argument is requested; and 3) states with particularity why oral argument would aid in understanding and evaluating the issues to be decided. Rule 25-22.0022(3), F.A.C., provides that granting a request for oral argument is solely at the Commission's discretion.

Motion for Partial Summary Final Order

On August 9, 2021, EU timely requested oral argument concurrent with its Motion for Partial Summary Final Order. EU states that since granting Summary Final Orders are uncommon but are granted in appropriate circumstances, the Commissioners would benefit by hearing oral argument on the issue from the various parties. EU requests oral argument of ten (10) minutes for each party be permitted.

Staff believes that the pleadings are sufficient on their face for the Commission to render a decision on EU's Motion, and recommends that oral argument is not necessary in this case. However, if oral argument would be helpful for the Commission to better evaluate EU's Motion, staff believes that 5 minutes for each party is sufficient.

Motion to Dismiss

Staff notes that there was no request made for oral argument on the Motion to Dismiss. While participation is at the discretion of the Commission, staff believes that the Motion to Dismiss is sufficient on its face for the Commission to render a decision. If the Commission would like to hear from the parties, staff believes that 5 minutes for each party is sufficient.

Issue 2: Should EU's Motion for Partial Summary Final Order be granted?

Recommendation: No. Based on staff's review of EU's Motion, it appears that the Motion does not establish an absence of any genuine issue of material fact as to the need for service. Therefore, EU's Motion for Partial Summary Final Order should be denied. (Osborn, Crawford)

Staff Analysis:

Standard of Review for Motion for Summary Final Order

Section 120.57(1)(h), F.S., requires that, in order to grant a motion for summary final order, it must be determined from "pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, that no genuine issue as to any material fact exists and that the moving party is entitled as a matter of law to the entry of a final order." The Commission has previously stated that "the standard for granting a summary final order is very high."¹

In general, "a summary judgment should not be granted unless the facts are so crystalized that nothing remains but questions of law," and "must show conclusively the absence of any genuine issue of material fact and the court must draw every possible inference in favor of the party against whom a summary judgment is sought." Moore v. Morris, 475 So. 2d 666, 668 (Fla. 1985); see also City of Clermont, Fla. v. Lake City Util. Servs., Inc., 760 So. 2d 1123, 1124 (Fla. 5th DCA 2000), and Wills v. Sears, Roebuck & Co., 351 So. 2d 29 (Fla. 1977). If the record "raises even the slightest doubt" that an issue of material fact may exist, a summary final order would not be appropriate. Albelo v. S. Bell (Albelo), 682 So. 2d 1126, 1129 (Fla. 4th DCA 1996). Even if the parties agree as to the facts, "the remedy of summary judgment is not available if different inferences can be reasonably drawn from the uncontroverted facts." Albelo, 682 So. 2d at 1129. The Commission has also previously found that "it is premature to decide whether a genuine issue of material fact exists when [a party] has not had the opportunity to complete discovery and file testimony."²

In addition, the Commission has acknowledged that the purpose of summary final order is to avoid the expense and delay of trial when no dispute exists concerning the material facts.³ The record is reviewed in the light most favorable toward the party against whom the summary judgment is to be entered. The movant carries a heavy burden to present a showing that there is no genuine issue as to any material fact. Subsequently, the burden shifts to the party against whom summary judgment is sought to demonstrate the falsity of the showing. If they do not do so, summary judgment is proper and should be affirmed. Even if the

¹ Order No. PSC-11-0244-FOF-GU, issued June 2, 2011, in Docket No. 090539-GU, In re: Petition for approval of Special Gas Transportation Service agreement with Florida City Gas by Miami-Dade County through Miami-Dade Water and Sewer Department, p. 4.

² Order No. PSC-01-1554-FOF-WU, issued July 27, 2001, in Docket No. 991437-WU, In re: Application for increase in water rates in Orange County by Wedgefield Utilities, Inc., p. 2, citing Brandauer v. Publix Super Markets, Inc., 657 So. 2d 932, 933-34 (Fla. 2d DCA 1995).

³ Order No. PSC-11-0291-PAA-TP, issued July 6, 2011, in Docket No. 110071-TP, In re: Emergency Complaint of Express Phone Service, Inc. against Bellsouth Telecommunications, Inc. d/b/a AT&T Florida regarding interpretation of the parties' interconnection agreement, p. 5.

facts are not disputed, a summary judgment is improper if different conclusions or inferences can be drawn from the facts.⁴

EU's Motion for Partial Summary Final Order

On August 9, 2021, EU filed a Motion for Partial Summary Final Order. Attached to its Motion is a copy of the Charlotte County Sewer Master Plan (Sewer Master Plan). EU states that per Section 367.045(1)(b), F.S., and Rule 25-30.033(1)(k), F.A.C., the threshold issue in a certificate proceeding is a need for service. EU claims that the Sewer Master Plan satisfies the determination for need for service. EU argues that the Sewer Master Plan “concluded that the septic tanks in [the] proposed service area are having significant adverse environmental impacts and recommended that the proposed service area be converted to central wastewater by 2022.” According to EU, the Sewer Master Plan is the basis for the County entering into a Bulk Wastewater Agreement with the Utility to convert septic tanks to central sewer.

EU argues that as recently as January of this year,⁵ the Commission discussed a motion to strike, a motion for summary final order, and a motion for partial summary final order; that those pleadings were decided on the merits and not dismissed on procedural grounds; and that each of those pleadings can be an appropriate vehicle for resolving issues to which no outstanding facts attach. EU states that in that referenced docket, the Commission also acknowledged “the purpose of summary final order is to avoid the expense and delay of trial when no dispute exists concerning the material facts.” EU claims that absent a partial summary finding that the Sewer Master Plan satisfies a determination of need for service in the proposed service area, there would be substantial time, and expense in testimony and evidence by the parties as to the underlying facts behind the Sewer Master Plan.

EU contends that its Motion is not dependent upon the resolution of any question of fact, but rather only requests an acknowledgment that the Commission will accept and follow the Sewer Master Plan in determining the need for service for this application. EU claims that the Sewer Master Plan “sets forth the substantial environmental evaluation that took place before deciding that certain areas of the County required converting septic tanks to central sewer including EU’s proposed service area,” and that the facts substantiating the Sewer Master Plan do not need to be litigated.

EU contends that while it may be premature to decide whether genuine issues of material fact exist before testimony and discovery have been filed, acknowledging the Sewer Master Plan as controlling on the issue of need for service does not require that delay. The Utility maintains that granting the Motion would not end the case or deprive the parties a hearing on the merits of the application, and would benefit the parties and the Commission.

⁴ See Trawick’s Florida Practice and Procedure, Section 25-5, Summary Judgment Generally, Henry P. Trawick, Jr. (2020).

⁵ Order No. PSC-2021-0054-PCO-WS issued January 25, 2021, in Docket No. 20190168-WS, In re: Application for water and wastewater service in Duval, Baker, and Nassau Counties, by First Coast Regional Utilities, Inc.

Ms. Cotherman's Response in Opposition to EU's Motion

On August 16, 2021, Ms. Linda Cotherman filed a response to EU's Motion, requesting the Motion be denied. She asserts that there are several threshold issues for the Commission to consider in a certificate proceeding, not just the need for service.

Ms. Cotherman argues that the Sewer Master Plan is not controlling on the issue of the need for service. She claims that the Sewer Master Plan was developed using "outdated data, sourced from outside organizations whose criteria cannot be verified," and that the County actually continues to issue permits for septic systems in the proposed service area. Ms. Cotherman contends that the sewer connection recommendations in the plan only refer to two existing wastewater treatment plants, and does not reference individual connections. The Sewer Master Plan states that, "the priority and sequencing of connecting utilities to the CCUD [Charlotte County Utilities Department] sewer systems depend on the desire of the utility owner and the CCUD to connect their systems and the cost associated with connecting the systems," which Ms. Cotherman believes indicates that the conversions are only for consideration, not mandatory.

Ms. Cotherman contends that there is a material dispute of fact regarding the need for service. She argues that the Sewer Master Plan refers only to connecting two existing wastewater treatment plants to the CCUD and the connection was recommended to be considered within five years, but only when the owners of those plants request connection to CCUD. She also claims that the applicant's proposed service area is already in the CCUD-certificated area.

Palm Island's Response in Opposition to EU's Motion

On August 26, 2021, Palm Island filed a response to EU's Motion, requesting the Motion be denied.⁶ Palm Island first points to Rule 28-106.204(3) which states that "Motions, other than a motion to dismiss, shall include a statement that the movant has conferred with all other parties of record and shall state as to each party whether the party has any objection to the motion." Palm Island was not consulted prior to the filing of the Motion and the referenced statement does not exist. Palm Island also asserts that there not has not been enough time to complete discovery and file testimony, so the Motion is premature.

Palm Island argues that the Sewer Master Plan "is a flawed document, making untrue assumptions, inappropriately designating the barrier islands within the Urban Service Area and making recommendations that are inconsistent with Charlotte County's Comprehensive Plan." Palm Island included affidavits from Ms. Ellen S. Hardgrove, a certified planner, and Mr. Robert H. Weisberg, a professor of physical oceanography.

Ms. Hardgrove opines that the proposed service area is not within the Urban Service Area, as the Sewer Master Plan designates, and that the County's Comprehensive Plan prohibits the provision of sewer infrastructure outside the Urban Service Area unless there is clear and convincing evidence that a health problem exists, for which there is no other feasible solution. Palm Island

⁶ By Order No. PSC-2021-0322-PCO-SU, issued August 24, 2021, Palm Island's unopposed request for an enlargement of time to respond to EU's Motion was granted.

contends that the record shows no such health problem. According to Ms. Hardgrove, the County's Comprehensive Plan states that the County will continue to primarily rely upon individual on-site septic systems in areas outside the Urban Service Area. She claims that the Comprehensive Plan establishes that the County prohibits sewer extension into the Barrier Island Overlay District, which includes the proposed service area, and that the County shall not expand the scope of sanitary sewer service to the bridgeless barrier islands. She also claims that the County's Sewer Master Plan's five, ten, and fifteen year priorities did not include the conversion of septic tanks on the barrier islands.

Dr. Weisberg notes that there is no evidence in the Sewer Master Plan that septic tanks contribute to the degradation of water quality. According to Dr. Weisberg, "EU's application cites no scientific or other data which would amount to a 'Need for Service' on any environmental basis."

Palm Island concludes that accepting the Sewer Master Plan as definitive and dispositive would be to allow infrastructure in violation of the County's Comprehensive Plan, and that the County's Sewer Master Plan is not authoritative since its premise is flawed. Palm Island argues that EU has not demonstrated an absence of any genuine issue of material fact, that consideration of the Motion would require an impermissible weighing of the evidence, and that it is premature to grant summary final relief because discovery has not sufficiently been developed for a determination to be made that no genuine issue of material fact exists. Palm Island maintains that, "[a]s a general rule, 'a court should not enter summary judgment when the opposing party has not completed discovery.'" Anson Street, LLC v. Rosado, 100 So. 3d 1270, 1271 (Fla. 4th DCA 2012).

Staff Analysis and Conclusion

A. Need for Service

Per Section 367.045(1)(b), when a utility applies for an initial certificate of authorization from the Commission, it shall provide all information required by rule or order of the commission, which information may include a detailed inquiry into the ability of the applicant to provide service, the area and facilities involved, the need for service in the area involved, and the existence or nonexistence of service from other sources within geographical proximity to the area in which the applicant seeks to provide service.

Per Rule 25-30.033(1)(k), F.A.C.:

- (k) To demonstrate the need for service in the proposed area, the applicant shall provide:
1. The number of customers currently being served and proposed to be served, by customer class and meter size, including a description of the types of customers currently being served and anticipated to be served, i.e., single family homes, mobile homes, duplexes, golf course clubhouse, or commercial. If the development will be in phases, this information shall be separated by phase;
 2. A copy of all requests for service from property owners or developers in areas not currently served;

3. The current land use designation of the proposed service territory as described in the local comprehensive plan at the time the application is filed. If the proposed development will require a revision to the comprehensive plan, describe the steps taken and to be taken to facilitate those changes, including changes needed to address the proposed need for service; and,
4. Any known land use restrictions, such as environmental restrictions imposed by governmental authorities[.]

EU's Motion for Partial Summary Final Order asks that the Commission find that, based upon Charlotte County's Sewer Master Plan, there is a need for central wastewater service in the proposed service area. Rule 25-30.033(1)(k), F.A.C., lists four factors that must be met to demonstrate the need for service in a proposed service area. EU's Motion did not address all of these factors: it did not address the number of customers currently being served and proposed to be served, by customer class and meter size, including a description of the types of customers currently being served and anticipated to be served; a copy of all requests for service from property owners or developers in areas not currently served; the current land use designation of the proposed service territory as described in the local comprehensive plan at the time the application is filed; and, any known land use restrictions, such as environmental restrictions imposed by governmental authorities.

A Motion for Partial Summary Final Order should not be granted unless "the facts are so crystalized that nothing remains but questions of law" and "must show conclusively the absence of any genuine issue of material fact." As shown in the conflicting interpretations of the Sewer Master Plan in the Motion and responses, different inferences can be drawn from the Sewer Master Plan, and there is not an absence of any genuine issue of material fact.

The Commission has found that "it is premature to decide whether a genuine issue of material fact exists when [a party] has not had the opportunity to complete discovery and file testimony." The parties have not had the opportunity to complete discovery and file testimony. The Order Establishing Procedure for this docket was issued on August 25, 2021. Intervenor Testimony is not due until November 2021, and discovery actions are not complete until January 21, 2022. The Utility is the only party who has filed testimony, and the only discovery that has been served in the case thus far is a set of requests for admissions served by EU on the parties on June 30, 2021, prior to the issuance of the Order Establishing Procedure.

B. Conclusion

The standard for granting a summary final order is very high. For the reasons stated above, staff recommends that EU's Motion be denied.

Issue 3: Should Mr. Hurst's Motion to Dismiss be granted?

Recommendation: No. Based on staff's review of Mr. Hurst's Motion to Dismiss, it appears that the Motion to Dismiss does not address whether EU's application states a cause of action upon which relief may be granted. There is also already an administrative hearing scheduled in this docket. Therefore, Mr. Hurst's Motion to Dismiss should be denied. (Osborn, Crawford)

Staff Analysis:

Standard of Review for Motion to Dismiss

The function of a motion to dismiss is to raise as a question of law the sufficiency of the facts alleged to state a cause of action. Varnes v. Dawkins, 624 So. 2d 349, 350 (Fla. 1st DCA 1993). The applicable standard for disposing of a motion to dismiss is whether, with all factual allegations in the petition taken to be true, the petition states a cause of action upon which relief may be granted. Id. In making this determination, all reasonable inferences drawn from the petition must be made in favor of the petitioner. Id. Consideration of a motion to dismiss "may not properly go beyond the four corners of the complaint in testing the legal sufficiency of the allegations set forth therein." Stubbs v. Plantation Gen. Hosp. Ltd. P'ship, 988 So. 2d 683, 684 (Fla. 4th DCA 2008) (internal quotation omitted). All of the elements of a cause of action must be properly alleged in a pleading to seek affirmative relief. If the elements are not properly alleged, the pleading should be dismissed. Kislak v. Kreedian, 95 So. 2d 510 (Fla. 1957).

Mr. Hurst's Motion to Dismiss the Application

On January 20, 2021, Mr. Hurst filed a Motion to Dismiss the Application or Alternatively to Hold This Matter in Abeyance Until the Applicant Serves Proper Notices and Copies of the Application on all Property Owners. Mr. Hurst claims that residents in the proposed service area did not receive proper and adequate notice. He asserts that mail is not delivered to the physical addresses on Little Gasparilla Island. He argues that the notice does not comply with agency rules because it was sent as junk mail, was not post-marked, was not signed, appears to be just another mass mailing of an unknown advertiser, and provided no physical return address. According to Mr. Hurst, the notice has no caption, does not clearly inform the reader that there is a legal matter pending before the Commission and that the resident may be a party, and does not include a certificate of service. He claims there has been a violation of due process. Mr. Hurst also argues that EU's application is incomplete and does not state any costs or tariffs.

EU's Response to Mr. Hurst's Motion to Dismiss

On January 21, 2021, EU filed a response to Mr. Hurst's Motion to Dismiss, requesting that the Motion to Dismiss be denied. EU asserts that the notices were mailed to property owners at the mailing addresses as reflected on the records of the Charlotte County Property Appraiser, the envelopes clearly had the name of EU in the return address, and notices were even mailed to out of state addresses and out of the country. EU states that because over 1,300 notices were mailed, the notices were sent by a third party as bulk mail and there are no prohibitions against sending notices in this manner. EU further states that the notice was prepared in accordance with the requirements of Rule 25-30.030, F.A.C., and was approved by staff as required by Rule 25-

30.030(4), F.A.C. Mr. Hurst complained in his Motion to Dismiss of lack of notice of EU's Motion to Bifurcate, but EU claims that there is no requirement that such notice be provided, and EU contends that no such notice has been required or provided in any prior case in which bifurcation has been considered by the Commission. Also, because EU's request for bifurcation was denied, EU refiled its application with the rates and charges.

Staff Analysis and Conclusion

In his Motion to Dismiss, Mr. Hurst does not address whether, with all factual allegations in EU's application taken to be true, the application does or does not state a cause of action upon which relief may be granted. Mr. Hurst argues that notice was insufficient in this case. However, pursuant to notice, he, and a number of others, timely filed objections to EU's application, and requested an administrative hearing, which has been scheduled for February 8-9, 2022. Mr. Hurst's concerns that other individuals may have not received notice, or may have not understood the notice they received, are speculative in nature, and Mr. Hurst is further not authorized to represent any such others' interests in this proceeding. The essence of due process is notice and the opportunity to be heard, to which Mr. Hurst clearly has availed himself. Finally, the notice was prepared in accordance with the requirements of Rule 25-30.030, F.A.C. and was approved by staff as required by Rule 25-30.030(4), F.A.C. On December 18, 2021, EU filed an Affidavit of Mailing of the Notice of Application to all property owners in the proposed service area.

For the reasons stated above, staff recommends that Mr. Hurst's Motion to Dismiss be denied.

Issue 4: Should this docket be closed?

Recommendation: No. The docket should remain open pending the Commission's action on the Utility's application for an original wastewater certificate. (Osborn, Crawford)

Staff Analysis: The docket should remain open pending the Commission's action on the Utility's application for an original wastewater certificate.