

PUBLIC SERVICE COMMISSION
WATER AND WASTEWATER UTILITY RULES

25-30.091 Petition to Revoke Water Certificate of Authorization.

(1) Purpose. The purpose of this rule is to establish a process by which customers of investor-owned drinking water utilities may petition the Commission to revoke a utility's certificate of authorization pursuant to Section 367.072, F.S.

(2) Pursuant to Section 367.0812(3), F.S., customers may not petition the Commission to revoke a utility's water certificate of authorization if the utility is the subject of a proceeding under Chapter 367, F.S. For the purposes of this rule, a proceeding under Chapter 367, F.S., means any rate proceeding in which quality of water service is addressed, such as a general rate proceeding under Section 367.081, F.S., a staff assisted rate proceeding under Section 367.0814, F.S., or a limited proceeding under Section 367.0822, F.S. A general rate proceeding under Chapter 367, F.S., is initiated upon the utility's filing of a request for approval of a test year pursuant to Rule 25-30.430, F.A.C. Other rate proceedings under Chapter 367, F.S., are initiated upon the utility's filing of an application for rate relief.

(3) Letter of Intent. Utility customers who intend to petition the Commission for revocation of their utility's certificate of authorization pursuant to Section 367.072, F.S., shall notify the Commission in writing of their intent to file a petition for revocation of certificate. In the letter of intent, the customers shall advise the Commission of the name and address of their water utility. The letter of intent shall be filed with the Office of Commission Clerk.

(4) Within 10 days after receipt of the letter of intent, the Commission staff will notify the utility of the customers' intent to file a petition for revocation of its certificate of authorization.

(5) In the notification letter to the utility, the Commission staff will request that the utility certify, within 30 days after receipt of the notification letter, the number of water customers the utility serves by counting its service connections, and provide staff with a list of its customers' names and addresses.

(6) If the utility fails to certify the number of customers it serves by the date requested in the notification letter, Commission staff will utilize the number of customers reported by the utility in its most recent annual report on file with the Commission to evaluate the sufficiency of the petition pursuant to Section 367.072(1)(b), F.S.

(7) Upon receipt of the utility's response to the

Commission staff's request to certify the number of customers the utility serves, or, if the utility fails to respond to the Commission staff's request to certify the number of customers the utility serves, upon the expiration of 30 days from the utility's receipt of the Commission staff's request, the Commission staff will send the following materials to customers who file a letter of intent pursuant to subsection (3) of this rule:

(a) "Instructions for Petitioning for Revocation of Water Certificate," (EFF. 12/14), which are incorporated herein by reference and are available at <http://www.flrules.org/Gateway/reference.asp?No=R ef-04971>;

(b) Form PSC 1000 (12/14), entitled "Florida Public Service Commission: Petition to Revoke the Certificate of Authorization of [Utility Name]," which petition form the customers must copy and use for the collection of signatures to be submitted to the Commission. A sample of Form PSC 1000 (12/14) is incorporated herein by reference for informational purposes only, and is available at <http://www.flrules.org/Gateway/reference.asp?No=R ef-04972>. The sample petition form incorporated herein must not be used for the collection of signatures;

(c) A copy of Section 367.072, F.S.;

(d) A copy of this rule; and

(e) A copy of the state primary and secondary drinking water standards, as contained in Rule 62-550.828, F.A.C.

(8) For a petition for revocation to be deemed sufficient, the following criteria must be met:

(a) Each petition form must include the printed name, signature, service address, and telephone number of the customer-signatory;

(b) Each petition form must state with specificity each issue that the customer-signatory has with the quality of water service provided, each time the issue was reported to the utility, and how long the issue has existed; and

(c) Petition forms must be completed by at least 65 percent of the utility's customers, as that term is defined in Section 367.072, F.S.

(9) The customers must file the completed petition forms with the Office of Commission Clerk within 90 days after receipt of the staff's instructions.

(10) Within 10 days after receipt of the petition, the staff will provide notice to the customers who filed the letter of intent or their designated representative

by letter as to whether the petition is sufficient for the Commission to act, and will provide a copy of the notice to the utility. If the petition is deficient, the notice will specify what additional information is required.

(11) If the notice identifies deficiencies in the petition, the customers must file a corrected petition with the Office of Commission Clerk curing the noticed deficiencies within 30 days after receipt of the notice, and must provide a copy of the cured petition to the utility. The staff will notify the customers who file a corrected petition or their designated representative by letter as to whether the corrected petition has cured the deficiencies specified in the notice provided under subsection (10), and will provide a copy of the letter to the utility. If the customers fail to timely cure the noticed deficiencies, the petition will be dismissed pursuant to Section 367.072(1)(b), F.S.

(12) The utility may file a response to a sufficiently filed petition with the Office of Commission Clerk within 14 days from the staff letter notifying the customers that the petition is sufficient for the Commission to act.

(13) The staff will file a recommendation for the Commission to determine at a scheduled agenda conference whether the issues identified in a sufficiently filed petition support a reasonable likelihood that the utility is failing to provide quality water services.

(14) If the Commission determines that the issues identified in the petition do not support a reasonable likelihood that the utility is failing to provide quality water services, the Commission's order dismissing the petition will be issued as a proposed agency action. The notice of proposed agency action will give substantially affected persons an opportunity to request a Section 120.569 or 120.57, F.S., hearing on the matter within 21 days after issuance of the notice, pursuant to Rule 25-22.029, F.A.C.

(15) If the Commission determines that the issues identified in the petition support a reasonable likelihood that the utility is failing to provide quality water services, the Commission will order the utility to show cause as to why its water certificate of authorization should not be revoked, and will set the matter for hearing pursuant to Sections 120.569, 120.57, 120.60(5), and 367.072(5), F.S. The utility's response to the show cause order shall use the criteria set forth in Sections 367.072(3)(a) and (b), F.S., in addressing the issues identified within the petition.

Rulemaking Authority 350.127(2), 367.072, 367.0812 FS. Law Implemented 367.072, 367.0812 FS. History--New 2-10-15.