

Water and Wastewater Certification



Certificates

- Section 367.031, Florida Statutes (F.S.), *Original certificate*, relates to water and wastewater utilities under the jurisdiction of the Commission.
- Water and wastewater utilities must obtain a certificate from the Commission to provide service prior to receiving a permit from the Department of Environmental Protection (DEP) or the Water Management District.
- Certificate grants the service territory for water and wastewater utilities.



Provision of Service

Section 367.111 (1), F.S.

- A utility must provide service to anyone in its territory within a reasonable time.
- The Commission may delete unserved portions of a territory if the utility's service is not provided within five years of authorization.
- Each utility shall provide safe, efficient, and sufficient service.
- The Commission may reduce the utility's return on equity for failure to meet the standards.



Rule 25-30.032, Florida Administrative Code (F.A.C.) Applications

- Applications are filed with the Commission Clerk
- Forms are available on the website under “Water & Wastewater Application Packages”

<http://floridapsc.com/WaterWasteWater/CertificationRequest>



Types of Certificate Applications

- 1) Original, No-Certificate & Grandfather – This application is applicable in the following situations:
- A new utility not yet providing service which is requesting initial rates and charges
 - A utility already in operation which has been providing service without specific compensation and is now requesting rates and charges
 - A utility already in operation and charging for service
 - A utility that is operating in a county that has adopted a resolution declaring that such county is subject to the jurisdiction of the Commission



Types of Certificate Applications (cont.)

- 2) Territory Amendment - This application is for a certificated water or wastewater utility that proposes to extend its service territory into an area in which there is no existing water or wastewater system or proposes to delete a portion of its service territory.
- 3) Transfer - This application is for the transfer of an existing water or wastewater system, regardless of whether service is currently being provided. The application for transfer may result in the transfer of the seller's existing certificate, amendment of the buyer's certificate or granting an initial certificate to the buyer.



Types of Certificate Applications (cont.)

- 4) Transfer of Majority Organizational Control - This application is applicable when the only change the utility is requesting is a change in majority of organizational control.
- 5) Abandonment - While there is not an application for abandonments, any person, lessee, trustee, or receiver owning, operating, managing, or controlling a utility which intends to abandon the utility must file the notice required by Section 367.165, F.S.



Common Application Deficiencies

- Incorrect noticing
- Omitted information
- Incorrect name on evidence of land ownership
- Incorrect or incomplete tariffs



Original Certificate Application and Initial Rates and Charges

Applicant must demonstrate:

- The need for service in proposed territory.
- Consistency with the local comprehensive plan.
- Financial and technical ability.
- Appropriateness of system capacity.
- Cost justification for initial rates and charges.

Section 367.045(1), F.S., *Certificate of authorization; application and amendment procedures* & Rule 25-30.033, F.A.C., *Application for Original Certificate of Authorization and Initial Rates and Charges*



Existing Utility Charging for Service

The applicant must:

- Demonstrate financial and technical ability.
- Justify or support the appropriateness of system capacity.
- Provide proof of authority for current rates and charges.
- Provide an explanation regarding the provision of service prior to obtaining Commission Certificate.

Section 367.045(1), F.S., *Certificate of authorization; application and amendment procedures* & Rule 25-30.034, F.A.C., *Application for Certificate of Authorization for Existing Utility Currently Charging for Service*



Grandfather Certificate

- An application for a grandfather certificate is for any utility that is already established with rates and charges but has recently come under PSC jurisdiction.
- The applicant must provide:
 - A description of its current territory.
 - Proof of authority for current rates and charges.

Section 367.045(1), F.S., *Certificate of authorization; application and amendment procedures* & Rule 25-30.035, F.A.C., *Application for Grandfather Certificate*



Traditional Territory Amendment

Applicant must demonstrate:

- The need for service in proposed area.
- Consistency with local comprehensive plan.
- Financial and technical ability.
- The appropriateness of system capacity.

Section 367.045(2), F.S., *Certificate of authorization; application and amendment procedures* & Rule 25-30.036(3), F.A.C., *Application for Amendment to Certificate of Authorization to Extend or Delete Service*



Traditional Territory Amendment (cont.)

Applicant must demonstrate (cont.):

- The impact on current rates and charges.
- The impact on customers (if application is for territory deletion).

Section 367.045(2), F.S., *Certificate of authorization; application and amendment procedures* & Rule 25-30.036(3), F.A.C., *Application for Amendment to Certificate of Authorization to Extend or Delete Service*



Quick Amendment Application

A quick amendment application is appropriate if:

- Equivalent Residential Connections (ERCs) are no greater than 25.
- No other utility is willing or capable of serving.
- Private facilities have failed (well or septic tank) and service is otherwise not available.
- Application to be approved within 45 days of notice if no objection filed.

Section 367.045(2), F.S., *Certificate of authorization; application and amendment procedures* & Rule 25-30.036(2), F.A.C., *Application for Amendment to Certificate of Authorization to Extend or Delete Service*



Transfers

- A utility may not transfer its certificate or facilities without prior Commission approval unless the transfer is made contingent upon Commission approval.
- The transferor remains liable for any outstanding regulatory assessment fees, fines, or refunds.
- The transfer must be in the public interest.

Section 367.071(1), F.S., *Sale, assignment, or transfer of certificate of authorization, facilities, or control* & Rule 25-30.037, F.A.C., *Application for Authority to Transfer*



Transfer Certificate or Facilities to a Regulated Utility

To receive Commission approval:

- The buyer must have the financial and technical ability to operate the utility.
- The buyer must agree to fulfill the commitments, obligations, and representations of the seller.
- The proposed net book value of the system, as of the transfer date, must be supported.

Section 367.071(1), F.S., *Sale, assignment, or transfer of certificate of authorization, facilities, or control* & Rule 25-30.037(2), F.A.C., *Application for Authority to Transfer*



Transfer Certificate or Facilities to a Regulated Utility (cont.)

- The Commission may set rate base in a transfer to a regulated utility.
- A positive acquisition adjustment¹ will not be included in rate base absent extraordinary circumstances.
- A negative acquisition adjustment will be included in rate base if the purchase price is less than 80 percent of net book value.

Section 367.071(5), F.S., *Sale, assignment, or transfer of certificate of authorization, facilities, or control* & Rule 25-30.0371, F.A.C., *Acquisition Adjustments*

¹An acquisition adjustment results when the purchase price differs from the net book value of the assets at the time of the acquisition.



Transfer of Majority Organization Control (TMOC)

- To receive Commission approval:
 - The buyer must have the financial and technical ability to operate the utility.
 - The buyer must agree to fulfill the commitments, obligations, and representations of the seller.
- Rate base is not affected by a TMOC.

Section 367.071, F.S., *Sale, assignment, or transfer of certificate of authorization, facilities, or control* & Rule 25-30.037(3), F.A.C., *Application for Authority to Transfer*



Transfer to a Governmental Entity

Transfer to a governmental entity is approved as a matter of right. The transfer application must include:

- A statement that the governmental entity obtained the most recent income and expense statement, balance sheet, statement of rate base and contributions in aid of construction (CIAC).
- A copy of the contract and list of assets being transferred.
- A statement regarding the disposition of customer deposits, outstanding regulatory assessment fees, fines, or refunds owed.

Section 367.071, F.S., *Sale, assignment, or transfer of certificate of authorization, facilities, or control* & Rule 25-30.037(4), F.A.C., *Application for Authority to Transfer*



Abandonment

- The utility must provide 60 days notice to both the county and the Commission.
- Failure to provide the notice is a violation of Florida Statutes and is a first degree misdemeanor.
- The county will petition the Court to appoint a receiver to operate the utility and dispose of the property.

Section 367.165, F.S., *Abandonment* & Rule 25-30.090, F.A.C.,
Abandonments



Florida Law and Rules Applicable to Water and Wastewater Utilities

- Chapter 367, F.S., *Water and Wastewater Systems* contains the Commission's authority to regulate privately owned water and wastewater utilities.
- Rules 25-9, F.A.C., *Construction and filing of tariffs by public utilities*; 25-10, F.A.C., *Water and sewer systems*; 25-22, F.A.C., *Rules governing practice and procedure*; and 25-30 F.A.C., *Water and wastewater utility rules*; contains the rules and regulations for utilities regulated by the Commission.
- Rule violations and penalties may go up to \$5,000 per day.



Online Resources

Transfer application packages can be accessed at the following link:

<http://floridapsc.com/WaterWasteWater/CertificationRequest>

