

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: April 21, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Harper) *AH*
Division of Accounting and Finance (Golden) *ms*
Division of Economics (Rome) *RR* *AD* *GO* *ALM* *S.M.C.*

RE: Docket No. 160246-WS – Proposed adoption of Rule 25-30.444, F.A.C., Utility Reserve Fund, and 25-30.4445, F.A.C., Notice of Application for Utility Reserve Fund.

AGENDA: 05/04/17 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

RULE STATUS: May Not Be Deferred. Rules must be filed for adoption by June 7, 2017

SPECIAL INSTRUCTIONS: None

Case Background

During the 2016 Legislative Session, the Florida Legislature enacted House Bill 491, which modified Section 367.081(2)(c), F.S., and required the Commission to adopt rules to implement a utility reserve fund for water and wastewater utilities. The Commission proposed the adoption of Rule 25-30.444, F.A.C., Utility Reserve Fund, and Rule 25-30.4445, F.A.C., Notice of Application for Utility Reserve Fund, at its March 7, 2017, agenda conference. Pursuant to Section 120.54, Florida Statutes, the notice of proposal of Rules 25-30.444 and 25-30.4445, F.A.C., was published in the March 9, 2017, edition of the Florida Administrative Register.

Docket No. 160246-WS

Date: April 21, 2017

On March 22, 2017, the Joint Administrative Procedures Committee (JAPC), sent a letter with comments for Rule 25-30.444, F.A.C, which is appended hereto as Attachment A. JAPC did not have any comments or recommended changes for Rule 25-30.4445, F.A.C.

This recommendation addresses whether the Commission should change the proposed Rule 25-30.444, F.A.C., based on JAPC's comments. The Commission has jurisdiction pursuant to Sections 120.54, 350.127(2)(c), 367.081, and 367.121, F.S.

Discussion of Issues

Issue 1: Should the Commission change proposed Rule 25-30.444, F.A.C., based on JAPC's comments? (Harper)

Recommendation: Yes. Staff recommends changing proposed Rule 25-30.444, F.A.C., as set forth in Attachment B.

Staff Analysis: In its March 22, 2017 letter, JAPC commented that Subsection (1) of Rule 25-30.444, F.A.C., should be clarified to state that the utility reserve fund could be used only for repairs to existing distribution and collection infrastructure. JAPC suggested that the statutory language, "existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service" be added to the proposed rule as shown in Attachment B to clarify that the utility reserve fund would not apply to future new construction. Therefore, staff recommends that this language be added. The additional rule language is simply for clarification and has no effect on the scope or intent of the rule proposed by the Commission.

In addition, JAPC suggested that the statutory language "existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service" also be added to Subsection 25-30.444(4)(f), to clarify that the rule would apply to repairs of existing infrastructure only. Therefore, staff recommends that this language be added as shown in Attachment B. Again, the additional rule language is simply for clarification and has no effect on the scope or intent of the rule proposed by the Commission.

Staff has contacted JAPC staff regarding the rule language set forth in Attachment B. JAPC staff stated that if the proposed rule is changed as set forth in Attachment B, JAPC staff will not have any further issues or comments on the rule and the rule may be filed for adoption with the Department of State 21 days after a Notice of Change is published in the Florida Administrative Register.

Date: April 21, 2017

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission approves staff's recommendation in Issue 1, a Notice of Change will be published in the Florida Administrative Register. The rules may be then filed for adoption with the Department of State 21 days after the Notice of Change is published in Florida Administrative Register, and this docket should be closed. (Harper)

Staff Analysis: If the Commission approves staff's recommendation in Issue 1, a Notice of Change will be published in the Florida Administrative Register. The rules may be then filed for adoption with the Department of State 21 days after the Notice of Change is published in Florida Administrative Register, and this docket should be closed.

Date: April 21, 2017

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President



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**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

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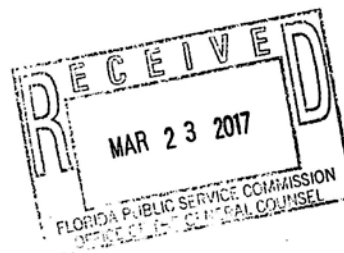


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March 22, 2017

Ms. Adria E. Harper
Office of the General Counsel
Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

**RE: Public Service Commission
Rules 25-30.444 and .4445**



Dear Ms. Harper:

I have reviewed the above-referenced rules and offer the following comments for your consideration and response:

25-30.444(1): Section 367.081(2)(c), Florida Statutes, permits the Commission to authorize a utility reserve fund for infrastructure repair and replacement for a utility "for existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service...." The same paragraph directs the Commission to adopt rules to govern the "implementation, management, and use of the fund, including, but not limited to, rules related to expense for which the fund may be used...." Therefore, it appears that implementation is required to specify eligible expenses, but the eligible expenses must constitute "existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service," pursuant to the statute.

Subsection (1) purports to set forth eligible projects for the creation of a utility reserve fund, but refers only to a "future infrastructure repair or replacement project." It appears that the quoted language may exceed the statutory requirement that the project be "for existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service," as stated in section

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367.081(2)(c). See § 120.52(8)(c), Fla. Stat. (2016). Please review and advise.

25-30.444(4)(f): Please see the comments above regarding section 367.081(2)(c), as they relate to the authorization granted in this paragraph. The paragraph permits the disbursement of utility reserve funds for an "emergency repair or replacement that is critical to the operation of the utility facilities," which appears to expand the statutory requirement that the project be "for existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service." Please review and advise.

If you have questions, please do not hesitate to contact me. Otherwise, I look forward to your written response.

Sincerely,



Jamie L. Jackson
Senior Attorney

JLJ:DF WORD/JACKSON/25_030.444LS032217_162690_162691

25-30.444 Utility Reserve Fund

(1) PROJECT ELIGIBILITY. The following considerations shall be applied in determining whether a future infrastructure repair or replacement project of existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service is eligible for advance funding through a utility reserve fund and whether a utility reserve fund is the most appropriate methodology to address the requested project.

(a) The following projects shall be eligible for a utility reserve fund:

1. Projects to repair or replace existing utility infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service that is recorded in the National Association of Regulatory Utility Commissioners' Uniform System of Accounts (NARUC USOA) water utility plant account numbers 304, 305, 306, 307, 308, 309, 310, 311, 320, 330, 331, 333, 334, 335, 336, and 339, and wastewater utility plant account numbers 354, 355, 360, 361, 362, 363, 364, 365, 366, 367, 370, 371, 374, 375, 380, 381, 382, and 389;

2. Future expenditures related to land or land rights recorded in NARUC USOA water utility plant account number 303 or wastewater utility plant account number 353 if the expenditure is necessary to the successful completion of an eligible repair or replacement project;

3. Upgrades or enhancements of existing facilities if it can be demonstrated that the upgrade or enhancement is necessary to comply with federal, state, or local regulatory requirements, or provides a more cost-effective or more reliable alternative than an identical replacement, and that the upgrade or enhancement is not designed solely to address future customer growth;

4. Repair projects that may be expensed rather than capitalized, as prescribed by Rule 25-30.140(1)(g)(3), F.A.C., if it can be demonstrated that the repair expense is not already

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1 reflected in the utility's current rates as an annual or amortized annual expense, or that the
2 annual repair and maintenance expense allowance reflected in the utility's current rates is
3 insufficient to cover the projected costs of the proposed repair project; or

4 5. If a project includes both the repair or replacement of existing infrastructure and the
5 expansion or improvement of facilities to meet future customer growth, the portion of the
6 project that is related to the repair and replacement of existing infrastructure is eligible if those
7 costs can be identified and segregated from the portion of the project related to the expansion
8 or improvements designed to meet future customer growth.

9 (b) The following projects shall not be eligible for a utility reserve fund:

10 1. Projects to repair or replace general plant that is not directly associated with the
11 physical operation of the utility's water or wastewater systems that are recorded in NARUC
12 USOA water utility plant account numbers 340, 341, 342, 343, 344, 345, 346, 347, and 348,
13 and wastewater utility plant account numbers 390, 391, 392, 393, 394, 395, 396, 397, and 398;

14 2. Expenditures related to NARUC USOA water utility plant accounts 301 and 302,
15 and wastewater utility plant accounts 351 and 352, which cover organization and franchise
16 related expenditures;

17 3. Expenditures related to land or land rights recorded in NARUC USOA water utility
18 plant account number 303 or wastewater utility plant account number 353 if the expenditure is
19 necessary solely to meet future customer growth; or

20 4. Capital improvement projects to expand existing facilities or construct new facilities
21 solely to meet future customer growth.

22 (c) When evaluating whether the utility's request to create a utility reserve fund is the
23 most appropriate methodology to address the utility's eligible future infrastructure repair and
24 replacement projects, the following additional factors will be considered:

25 1. Whether the anticipated completion date of the project allows sufficient time to
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1 accumulate the funds necessary to fund the project;

2 2. Whether the anticipated completion date is within 24 months of the end of the
3 historic test year used in a jointly filed rate application, if applicable, thereby making the
4 project eligible for consideration as a pro forma project in the rate proceeding pursuant to
5 Section 367.081(2)(a)2., F.S.;

6 3. Whether the contributions-in-aid-of-construction that will result from the utility
7 reserve fund will cause the utility to exceed the service availability policy guidelines provided
8 in Rule 25-30.580, F.A.C.;

9 4. Whether any of the eligible projects included in the utility reserve fund will result in
10 the complete elimination of either the water or wastewater treatment process;

11 5. Whether it has been more than seven years since the utility's last rate case, if the
12 request is filed as a stand-alone application or in conjunction with a limited proceeding; or

13 6. Whether the total increase resulting from implementation of the utility reserve fund
14 surcharge will exceed the utility's annual revenues for the most recent 12-month period or test
15 year by more than 30 percent.

16 (2) UTILITY RESERVE FUND FILING REQUIREMENTS. Each applicant that
17 requests approval to create a utility reserve fund shall provide the following information to the
18 Commission. The request may be filed as a stand-alone application or in conjunction with an
19 application for rate increase filed pursuant to Sections 367.081(2)(a), 367.0814, or 367.0822,
20 F.S. If the request is filed in conjunction with an application for rate increase that also
21 requires the applicant's general information, paragraphs (2)(a), (b), and (c) may be omitted
22 from the utility reserve fund portion of the joint application. A utility that qualifies for staff
23 assistance as provided by Rule 25-30.455(1), F.A.C., may also request assistance with the
24 utility reserve fund process.

25 (a) The utility's name as it appears on the utility's certificate, address, telephone
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1 number, and, if available, email address and fax number.

2 (b) The name(s), address(es), and telephone number(s) of the person(s) that should be
3 contacted regarding this application.

4 (c) The address within the service area where the application is available for customer
5 inspection during the time the rate application is pending.

6 (d) A statement of the reason(s) why the utility is requesting approval of a utility
7 reserve fund.

8 (e) A capital improvement plan that includes: a general description of the age and
9 condition of the utility's facilities; a description of all infrastructure repair or replacement
10 projects that the utility anticipates will be necessary within the next five years, at a minimum,
11 even if some projects will not be included in the utility reserve fund; and the following
12 information for each infrastructure repair or replacement project that the utility requests be
13 included in the utility reserve fund:

14 1. A description of each plant asset that will be repaired or replaced, including the
15 NARUC USOA account number for each asset;

16 2. The date each asset was originally placed into service or an estimate of the age of
17 the plant asset(s) as reflected in the utility's depreciation records if the original service date is
18 unknown;

19 3. A detailed description of the reason(s) each repair or replacement project is
20 necessary to maintain or improve the quality or reliability of the water or wastewater service,
21 including whether any asset will be replaced prior to the end of its average service life as
22 provided by Rule 25-30.140, F.A.C.;

23 4. If the repair or replacement project is required by a governmental or regulatory
24 agency, include a copy of the rule, regulation, order, or other regulatory directive that requires
25 the repair or replacement;

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1 5. The projected cost to repair or replace each asset, and documentation that supports
2 the utility's calculation of the projected cost. The utility shall make all reasonable efforts to
3 obtain at least three comparative cost estimates for each requested project. Acceptable forms
4 of projected cost documentation are: an estimate by a professional engineer or other person
5 knowledgeable in design and construction of water and wastewater plants; a bid from a vendor
6 or service provider that includes a description of all work to be completed and an itemized list
7 of all costs associated with the project; vendor information regarding the purchase price of
8 plant components that will be purchased directly by the utility and labor estimates for work
9 that will be performed on the project by a utility employee or contractual service provider,
10 along with a statement that confirms that the employee's or contractual service provider's
11 work on the project is not included in their normal duties; or other information that shows a
12 detailed and verifiable estimate of the projected cost. If the utility is unable to obtain three cost
13 estimates for each project, the utility shall provide a statement explaining what steps the utility
14 took to obtain the estimates, why the utility was unable to obtain three estimates, and any
15 responses received from any contractors solicited.

16 6. Detailed specifications for each asset that can be used to verify the projected repair
17 or replacement cost, such as type, size, quantity, or quality of the materials used to complete
18 the repair or replacement of the asset. If the type, size, quantity, or quality of the components
19 used to make the repair or replacement will be materially different than the plant asset(s) being
20 repaired or replaced, describe the specific differences and why the change is either necessary
21 or provides a better resolution for the repair or replacement;

22 7. If the repair or replacement will change the design of the system, include a statement
23 explaining how the design of the system will change and why the change is either necessary or
24 will provide a better resolution for the repair or replacement;

25 8. A description of any alternatives to the proposed infrastructure repair or replacement
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1 project that the utility considered, such as new technologies or interconnection with another
2 utility system, and why the proposed project was determined to be the most cost-effective
3 option or will provide a better resolution for the repair or replacement;

4 9. If the infrastructure that is being replaced was subject to a non-used and useful
5 adjustment in the utility's last rate proceeding, include a statement explaining whether the
6 utility considered reducing the size of the replacement infrastructure to better match the
7 utility's capacity needs and the results of that analysis;

8 10. A description of any expense increases or decreases that the utility anticipates will
9 occur following completion of the infrastructure repair or replacement project; and

10 11. The projected timeline and anticipated completion date for the repair or
11 replacement project, including a detailed description of any target dates and significant
12 milestones if the project will be completed in multiple phases. If the repair or replacement
13 project is required by a governmental or regulatory agency, include any specific deadlines that
14 have been imposed by that agency, and describe any penalties that will be incurred by the
15 utility if the deadlines are not met.

16 (f) A description of any other funding sources that may be used for the project,
17 including a breakdown of the estimated project costs that will be funded with the utility
18 reserve fund, utility investment, and each available external funding source, such as a bank
19 loan, government loan, or government grant, as applicable.

20 (g) A schedule showing the calculation of the annualized revenues for the most recent
21 12-month period using the rates in effect at the time the utility files its application for approval
22 to create a utility reserve fund, broken down by customer class and meter size. This schedule
23 may be omitted from the utility reserve fund portion of the application if filed in conjunction
24 with an application for a rate proceeding that also requires an annualized revenue calculation.

25 (h) A schedule showing the calculation of the proposed utility reserve fund surcharge
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1 based on the number of bills by customer class and meter size for the most recent 12-month
2 period, or test year if filed in conjunction with an application for a rate proceeding.

3 (i) Revised tariff sheets incorporating the utility reserve fund surcharge into the tariff.

4 The utility shall show the utility reserve fund surcharge as a separate charge in its tariff and on
5 its customer bills.

6 (j) A statement indicating whether the applicant will secure the utility reserve fund
7 through an interest-bearing escrow account or an irrevocable letter of credit. If the utility's
8 request to create a utility reserve account is approved by the Commission, the utility will be
9 required to provide documentation showing that the escrow account has been established or
10 the irrevocable letter of credit has been obtained prior to implementation of the utility reserve
11 fund surcharge.

12 (k) A description of the procedures that the utility will implement to segregate the
13 monies collected from the utility reserve fund surcharge on the utility's books and records.
14 Separate accounting records must be maintained to record all transactions associated with the
15 collection, deposit, and use of monies designated for the utility reserve fund. A separate bank
16 account may be used to segregate the utility reserve fund monies that are secured through an
17 irrevocable letter of credit but is not required.

18 (l) A statement signed by an officer of the utility that the utility will comply with the
19 noticing requirements in Rule 25-30.4445, F.A.C., if the request is filed as a stand-alone
20 application, Rule 25-22.0407, F.A.C., if the request is filed in conjunction with an application
21 for a rate increase filed pursuant to Sections 367.081(2)(a) or 367.0814, F.S., or Rule 25-
22 30.446, F.A.C., if the request is filed in conjunction with a limited proceeding filed pursuant to
23 Section 367.0822, F.S.

24 (m) An Asset Management Plan prepared by the Florida Rural Water Association may
25 be provided in lieu of a capital improvement plan in paragraph (2)(e).

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1 (3) Reporting Requirements. Any utility that receives approval from or is required by
2 the Commission to create a utility reserve fund must keep an accurate and detailed account of
3 all monies and report to the Commission all monies it receives from the utility reserve fund
4 surcharge. The reporting requirement shall begin when the utility's reserve fund surcharge
5 tariff becomes effective. The utility must file periodic reports as follows:

6 (a) The utility shall file a report with the Commission Clerk's office no later than the
7 20th of every month indicating the monthly and total amount of money deposited into, and
8 monthly and total amount of disbursements made from the utility reserve fund as of the end of
9 the preceding month. If the utility bills its customers less frequently than once a month, this
10 reporting requirement may be modified to match the utility's normal billing frequency. A copy
11 of a bank statement that separately identifies the utility reserve fund deposits and
12 disbursements may serve as the monthly report.

13 (b) At least once every six months, the utility shall also report the status of all eligible
14 projects included in the utility reserve fund for which work was performed during the last six
15 months including the actual start date, the estimated or actual completion date, the costs
16 incurred during the last six months, and the total cost for any projects completed during the
17 last six months.

18 (c) The reports shall continue as long as the utility reserve fund is in effect and until all
19 funds have been disbursed either to pay for completed eligible projects or as refunds to
20 customers.

21 (d) A request for disbursement from the utility reserve fund escrow account or
22 authorization to use funds secured by an irrevocable letter of credit may be filed in
23 conjunction with the utility's monthly or quarterly reports.

24 (e) The utility shall also separately identify the utility reserve fund in its annual report
25 filed with the Commission each year pursuant to Rule 25-30.110, F.A.C.

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1 (f) The utility shall file an updated capital improvement plan with the Commission at
2 least once every three years for as long as the utility reserve fund remains active.

3 (4) DISBURSEMENT OF FUNDS. A utility requesting disbursement of funds from an
4 escrow account or authorization to use funds secured by an irrevocable letter of credit shall
5 file the following information and supporting documentation:

6 (a) A statement explaining why the disbursement is needed, including a description of
7 the completed project, or if a partial disbursement of funds is necessary prior to completion of
8 the full project, a description of the completed phase of the project, purchase of materials,
9 payments to contractors or vendors, or construction draws, as applicable;

10 (b) The date the project or phase of the project was completed and the replacement
11 asset(s) was placed in service, as applicable;

12 (c) Documentation supporting the amount of the requested disbursement. Acceptable
13 forms of documentation are: invoices, receipts, contractor application and request for payment
14 forms, loan documents, documents showing proof of payment, and other information that
15 shows detailed and verifiable project costs and payments;

16 (d) Documentation showing that the completed work was inspected or approved by the
17 governmental or regulatory authority that required the repair or replacement project, if
18 applicable; and

19 (e) Other documentation that demonstrates the project was completed, such as
20 photographs of the completed work, may be submitted but is not required.

21 (f) A utility may request the disbursement of funds from a utility reserve fund to assist
22 with making an emergency repair or replacement of existing distribution and collection
23 infrastructure that is nearing the end of its useful life or is detrimental to water quality or
24 reliability of service that is critical to the operation of the utility facilities and resulted from
25 events that were out of the utility's control, such as weather related damage, accidents, or
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1 defective parts. The utility's request for an emergency disbursement must include the
2 following information:

- 3 1. The information required in paragraphs (4)(a) through (e) above;
- 4 2. A description of any future funding sources that may be available to assist the
5 utility with the emergency repair or replacement costs, such as government assistance for
6 weather damage, insurance benefits, or manufacturer warranties for defective parts;
- 7 3. A statement explaining how the utility will reimburse the utility reserve fund for the
8 emergency disbursement through future funding sources, such as, government assistance,
9 insurance benefits, manufacturer warranties, bank loans, or utility investment. If no funding
10 sources will be available for reimbursement of the utility reserve fund, the utility shall either
11 provide a statement describing how the utility reserve fund project(s) or timeline may be
12 modified to address the project funding needs without modifying the amount of the utility
13 reserve fund surcharge, or provide the information required in subsection (5) below to request
14 a modification of the utility reserve fund surcharge.

15 (5) UTILITY RESERVE FUND MODIFICATIONS. A utility that must undertake a
16 project that was not anticipated when the utility reserve fund was created or that must make
17 significant modifications to a previously approved project may request a modification of the
18 utility reserve fund at any time following creation of the fund or in the utility's next rate
19 proceeding by filing the following information:

- 20 (a) A statement describing why the new project or modification of a previously
21 approved project is necessary, and whether the utility is requesting a change in the utility
22 reserve fund surcharge or only acknowledgement of the project modifications. If the new
23 project or project modification is required by a governmental or regulatory agency, include a
24 copy of the rule, regulation, order, or other regulatory directive that requires the new project or
25 project modification; and

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1 (b) The information required in paragraphs (2)(e) or (m), and (f), (g), (h), and (i) if the
2 utility is requesting a change in the utility reserve fund surcharge. Also, if the utility reserve
3 fund is secured through an irrevocable letter of credit, the utility shall provide an updated
4 irrevocable letter of credit prior to implementation of the utility reserve fund surcharge
5 increase.

6 (6) FINAL DISPOSITION OF UTILITY RESERVE FUND.

7 (a) The utility reserve fund surcharge shall be discontinued after all approved eligible
8 projects(s) have been completed, sufficient funds have been collected in the utility reserve
9 fund to cover the cost of the approved eligible project(s), and the final disbursement has been
10 made from the utility reserve fund. During the utility's next rate proceeding, the utility's rate
11 base, capital structure, operating expenses, and rates shall be adjusted as needed to reflect the
12 completed projects. The amount of the new plant assets that are funded through a utility
13 reserve fund shall be offset with an equal addition to contributions-in-aid-of-construction.

14 (b) Any monies that remain in the utility reserve fund following the last disbursement
15 for the completed eligible project(s) shall be refunded to the customers with interest in
16 accordance with Rule 25-30.360, F.A.C.

17 (c) All monies collected and held in the utility reserve fund should remain with the
18 utility regardless of any changes in utility ownership. If a utility's ownership changes through
19 a transfer or abandonment, the Commission shall determine whether the utility reserve fund
20 should be continued as follows:

21 1. In the event that the utility's ownership changes through a transfer as provided in
22 Rule 25-30.037, F.A.C., the transfer agreement shall include provisions that state: that the
23 utility reserve fund shall remain with the utility following the close of the sale; that the seller
24 shall provide copies of all documents related to the utility reserve fund to the buyer, including
25 the approved capital improvement plan, financial records, and status reports; whether the
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1 buyer requests to continue the utility reserve fund following the transfer; and whether the
2 buyer will assume responsibility for the escrow account or obtain an irrevocable letter of
3 credit to secure the utility reserve fund. If the buyer does not request to continue the utility
4 reserve fund or does not provide sufficient documentation to guarantee the continued security
5 of the utility reserve fund and compliance with the provisions set forth in this rule, all monies
6 held in the utility reserve fund shall be refunded to the customers with interest in accordance
7 with Rule 25-30.360, F.A.C., and the utility reserve fund surcharge and utility reserve fund
8 shall be discontinued. However, if the transfer of ownership is requested pursuant to Rule 25-
9 30.037(5), F.A.C., and will result in the transfer of ownership to an exempt entity other than a
10 governmental utility, the buyer shall not be required to obtain an escrow account or an
11 irrevocable letter of credit.

12 2. In the event that the utility is abandoned as provided in Rule 25-30.090, F.A.C., all
13 monies held in the utility reserve fund and all documents related to the utility reserve fund
14 shall remain with the utility and be turned over to the court-appointed receiver. If the utility
15 remains under Commission jurisdiction following the abandonment, the court-appointed
16 receiver shall be responsible for managing the utility reserve fund in accordance with this rule
17 and all applicable Commission Orders.

18 (d) If the utility fails to follow through with the eligible project(s) covered by the
19 utility reserve fund or comply with the security, fund maintenance, or reporting requirements
20 set forth in this rule, the Commission shall initiate a review of the utility reserve fund and
21 surcharge to determine whether the utility reserve fund and surcharge should be discontinued
22 and whether all monies in the reserve fund should be refunded to the customers with interest
23 in accordance with Rule 25-30.360, F.A.C.

24 Rulemaking Authority 350.127(2), 367.081(2)(c), 367.121 FS. Law Implemented
25 367.081(2)(c) FS. History—New .

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