

State of Florida



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FPSC - COMMISSION CLERK

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 6, 2018

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Harper) *CHS* *MC* *ALM*
Division of Accounting and Finance (Brown)

RE: Docket No. 20180041-WU – Proposed Amendment of Rule 25-30.455, FAC, Staff Assistance in Rate Cases, Rule 25-30.456, FAC, Staff Assistance in Alternative Rate Setting, and Rule 25-30.457, FAC, Limited Alternative Rate Increase.

AGENDA: 04/20/18 – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: 07/01/18 (Final Rule must be effective by this date pursuant to Section 367.0814(1), Florida Statutes)

SPECIAL INSTRUCTIONS: None

Case Background

Rule 25-30.455, Florida Administrative Code (F.A.C), addresses the procedures for water and wastewater utilities to petition the Commission for staff assistance in rate cases. Rule 25-30.456, F.A.C, addresses the procedures for water and wastewater utilities to petition the Commission for staff assistance in alternative rate proceedings. Rule 25-30.457, F.A.C, addresses the procedures for water and wastewater utilities to petition the Commission for a limited alternative rate increase.

Pursuant to these rules, the upper gross annual revenue threshold that determines eligibility for water and wastewater utilities to receive staff assistance is \$275,000 per system or \$550,000 on a company-wide basis. Pursuant to Section 367.0814(1), Florida Statutes (F.S.), the Commission must adjust the gross annual revenue threshold effective on July 1, 2013, and every five years

thereafter, based on the most recent cumulative five years of the price index established by the Commission pursuant to Section 367.081(4), F.S.

Staff initiated this rulemaking to adjust the gross annual revenue thresholds for staff assisted rate cases, in accordance with Section 367.0814(1), F.S. The notice of rule development for Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., appeared in the February 1, 2018, edition of the Florida Administrative Register, Volume 44, Number 22. There were no requests for a rule development workshop, and no workshop was held.

This recommendation addresses whether the Commission should propose the amendment of Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C. The Commission has jurisdiction pursuant to Sections 120.54, 350.127(2), 367.0814, and 367.121, F.S.

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Discussion of Issues

Issue 1: Should the Commission propose amendments to Rule 25-30.455, Staff Assistance in Rate Cases, Rule 25-30.456, Staff Assistance in Alternative Rate Setting, and Rule 25-30.457, Limited Alternative Rate Increase, F.A.C.?

Recommendation: Yes, the Commission should propose amendments to Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., as set forth in Attachment A. Staff recommends that the Commission certify proposed amended Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., as minor violation rules. (Harper, Brown)

Staff Analysis: Staff recommends that the Commission propose the amendments of Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., as set forth in Attachment A. Staff is recommending amendments to the rules to comply with Section 367.0814 (1), F.S.

Section 367.0814(1), F.S., provides:

The Commission may establish rules by which a water or wastewater utility whose gross annual revenues are \$250,000 or less may request and obtain staff assistance for the purpose of changing its rates and charges. A utility may request staff assistance by filing an application with the commission. *The gross annual revenue level shall be adjusted on July 1, 2013, and every 5 years thereafter, based on the most recent cumulative 5 years of the price index established by the commission pursuant to s. 367.081(4)(a).* (emphasis added)

Rule 25-30.455, F.A.C., allows certain water and wastewater utilities to petition the Commission for staff assistance in rate applications by submitting a completed staff assisted rate case application. Rule 25-30.456, F.A.C., allows water and wastewater utilities to petition the Commission for staff assistance in alternative rate setting. Rule 25-30.457, F.A.C., allows certain water and wastewater utilities to seek a limited rate increase. Each rule currently allows the water and wastewater utilities whose total gross annual operating revenues are \$275,000 or less for water service or \$275,000 or less for wastewater service to be eligible for staff assistance.

Section 367.0814(1), F.S., requires that the gross annual revenue threshold level be adjusted on July 1, 2013, and every five years thereafter, based on the most recent cumulative five years of the price index established by the Commission pursuant to Section 367.081(4), F.S. Therefore, in order to comply with the statute, staff recommends that the total gross annual operating revenue thresholds for eligibility set forth in each rule be increased to \$300,000 or less for water service, or \$300,000 or less for wastewater service, as set forth in Attachment A. Staff derived this adjusted amount based on the application of the five-year cumulative index (7.54 percent), established by the Commission pursuant to Section 367.081(4), F.S., which when applied increases the estimated gross annual revenue threshold level by \$25,000.

In addition, staff recommends that for Rules 25-30.455, and 25-30.456, F.A.C., the total gross annual operating revenues be increased from \$550,000 to \$600,000 or less on a combined basis, for staff assisted rate case applications and staff assistance in alternative rate settings as set forth in Attachment A. Staff derived this adjusted amount based on the application of the five-year

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cumulative index (7.54 percent), which when applied increases the estimated gross annual revenue threshold level by \$25,000.

Minor Violation Rules Certification

Currently, Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., are on the Commission's list of minor violation rules. Pursuant to Section 120.695, F.S., beginning July 1, 2017, for each rule filed for adoption the agency head shall certify whether any part of the rule is designated as a rule the violation of which would be a minor violation. Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., are minor violation rules because the violation of the rule would not result in economic or physical harm to a person or an adverse effect on the public health, safety, or welfare or create a significant threat of such harm. Violations of Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., would continue to be minor. Therefore, for the purposes of filing the amended rules for adoption with the Department of State, staff recommends that the Commission certify proposed amended Rule 25-30.455, Rule 25-30.456, and Rule 25-30.457, F.A.C., as minor violation rules.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54(3)(b)1., F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. A SERC was prepared for this rulemaking and is appended as Attachment B. As required by Section 120.541(2)(a)1., F.S., the SERC analysis includes whether the rule amendments are likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after implementation. None of the impact/cost criteria will be exceeded as a result of the recommended revisions.

The SERC concludes that the amendments to the rules will likely not directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within 1 year after implementation. Further, the SERC concludes that the amendments to the rules 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 5 years of implementation. Thus, the amendments to the rules do not require legislative ratification, pursuant to Section 120.541(3), F.S.

In addition, the SERC states that the amendments to the rules would have no impact on small businesses, would have no implementation or enforcement cost on the Commission or any other state and local government entity, and would have no impact on small cities or small counties. The SERC states that there will be no transactional costs likely to be incurred by individuals and entities required to comply with the requirements.

Conclusion

The Commission should propose the amendment of Rules 25-30.455, 25-30.456, and 25-30.457, F.A.C., as set forth in Attachment A. Staff recommends that the Commission certify proposed amended Rule 25-30.455, Rule 25-30.456, and Rule 25-30.457, F.A.C., as minor violation rules.

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Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rules should be filed with the Department of State, and the docket should be closed.

Staff Analysis: If no requests for hearing or comments are filed, the rule should be filed with the Department of State, and the docket should be closed.

25-30.455 Staff Assistance in Rate Cases.

(1) Water and wastewater utilities whose total gross annual operating revenues are ~~\$300,000~~ ~~\$275,000~~ or less for water service or ~~\$300,000~~ ~~\$275,000~~ or less for wastewater service, or ~~\$600,000~~ ~~\$550,000~~ or less on a combined basis, may petition the Commission for staff assistance in rate applications by submitting a completed staff assisted rate case application. Reasonable and prudent rate case expense shall be eligible for recovery through the rates developed by staff. Recovery of attorney fees and outside consultant fees related to the rate case shall be determined based on the requirements set forth in Section 367.0814(3), F.S. A utility that chooses not to exercise the option of staff assistance may file for a rate increase under the provisions of Rule 25-30.443, F.A.C.

(2) The appropriate application form, Commission Form PSC/AFD 2-W (11/86) (Rev. 06/14), entitled "Application for a Staff Assisted Rate Case," is incorporated into this rule by reference and is available at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04415>. The form may also be obtained from the Commission's Division of Accounting and Finance, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

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

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

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

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

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

9 (6) The official date of filing will be 30 days after the date of the written notification to the
10 applicant of the Commission's official acceptance of the application.

11 (7) In determining whether to grant or deny the application, the Commission will consider
12 the following criteria:

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

15 (b) Whether the applicant's books and records are organized consistent with Rule 25-
16 30.110, F.A.C., so as to allow Commission personnel to verify costs and other relevant factors
17 within the 30-day time frame set out in this rule;

18 (c) Whether the applicant has filed annual reports;

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

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

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

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

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

2 (9) An aggrieved applicant may request reconsideration of the application denial, which
3 will be decided by the full Commission.

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

7 (11) A petition to protest the Commission's proposed agency action shall conform to Rule
8 28-106.201, F.A.C.

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

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

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

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

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

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

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

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existing law.

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

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

5 (c) Provide to the utility materials to assist the utility in the preparation of its testimony
6 and exhibits. This material shall consist of an example of testimony filed by a utility in another
7 case, an example of testimony that would support the Proposed Agency Action Order in this
8 case, an example of an exhibit filed in another case, and examples of prehearing statements
9 and briefs filed in other cases.

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

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

12 *12-16-08, 8-10-14, 2-19-17,_____.*

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25-30.456 Staff Assistance in Alternative Rate Setting.

(1) As an alternative to a staff assisted rate case as described in Rule 25-30.455, F.A.C., water and wastewater utilities whose total gross annual operating revenues are \$300,000 ~~\$275,000~~ or less for water service or \$300,000 ~~\$275,000~~ or less for wastewater service, or \$600,000 ~~\$550,000~~ or less on a combined basis, may petition the Commission for staff assistance in alternative rate setting by submitting a completed staff assisted application for alternative rate setting.

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

<http://www.flrules.org/Gateway/reference.asp?No=Ref-04414>. The form may also be obtained from the Commission's Division of Accounting and Finance, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

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

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

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

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

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

7 (6) The official date of filing will be 30 days after the date of the written notification to the
8 applicant of the Commission's official acceptance of the application.

9 (7) In determining whether to grant or deny the application, the Commission will consider
10 the following criteria:

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

13 (b) Whether the applicant's books and records are organized consistent with Rule 25-
14 30.110, F.A.C., so as to allow Commission personnel to verify costs and other relevant factors
15 within the 30-day time frame set out in this rule;

16 (c) Whether the applicant has filed annual reports;

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

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

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

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

23 (8) The Commission will deny the application if the utility does not remit the filing fee, as
24 provided by paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance.

25 (9) An aggrieved applicant may request reconsideration of the application denial, which
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1 will be decided by the full Commission.

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

6 (11) The Commission will limit the maximum increase in operating revenues to 50 percent
7 of test year operating revenues.

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

11 (13) A substantially affected person may file a petition to protest the Commission's
12 Proposed Agency Action Order regarding a staff assisted alternative rate setting application
13 within 21 days of issuance of the Notice of Proposed Agency Action Order as set forth in Rule
14 28-106.111, F.A.C.

15 (14) A petition to protest the Commission's proposed agency action shall conform to Rule
16 28-106.201, F.A.C.

17 (15) In the event of protest of the Proposed Agency Action Order by a substantially
18 affected person, the rates established in the Proposed Agency Action Order may be
19 implemented on a temporary basis, subject to refund with interest in accordance with Rule 25-
20 30.360, F.A.C. At that time, the utility may elect to pursue rates set pursuant to the rate base
21 determination provisions of Rule 25-30.455, F.A.C.

22 (16) In the event of a protest, the maximum increase established in subsection (11) of this
23 rule shall no longer apply.

24 (17) In the event of a protest of the Commission's Proposed Agency Action Order in a
25 staff assisted alternative rate setting application, the utility shall:

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

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

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

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

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

(19) In the event of protest of the Commission's Proposed Agency Action Order in a staff assisted alternative rate setting application, the Commission staff shall:

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

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

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

Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS.
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1 *History—New 11-30-93, Amended 1-31-00, 12-16-08, 8-10-14,_____.*
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25-30.457 Limited Alternative Rate Increase.

(1) As an alternative to a staff assisted rate case as described in Rule 25-30.455, F.A.C., or to staff assistance in alternative rate setting as described in Rule 25-30.456, F.A.C., water utilities whose total gross annual operating revenues are \$300,000 ~~\$275,000~~ or less for water service and wastewater utilities whose total gross annual operating revenues are \$300,000 ~~\$275,000~~ or less for wastewater service may petition the Commission for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service by filing with the Office of Commission Clerk the information required by subsections (7), (8) and (9) of this rule.

(2) Within 30 days of receipt of the completed petition, the Commission will evaluate the petition and determine the petitioner's eligibility for a limited alternative rate increase.

(3) The Commission will notify the petitioner in writing as to whether the petition is accepted or denied. If the petition is accepted, staff assistance in alternative rate setting will be initiated. If the petition is denied, the notification of petition denial will state the deficiencies in the petition with reference to the criteria set out in subsection (5) of this rule.

(4) The official date of filing will be 30 days after the date of the written notification to the petitioner of the Commission's acceptance of the petition.

(5) In determining whether to grant or deny the petition, the Commission will consider the following criteria:

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

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

(c) Whether the petitioner has filed annual reports;

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- 1 (d) Whether the petitioner has paid applicable regulatory assessment fees;
- 2 (e) Whether the petitioner has at least one year of experience in utility operation;
- 3 (f) Whether the petitioner has filed additional relevant information in support of eligibility
- 4 together with reasons why the information should be considered;
- 5 (g) Whether the utility was granted a rate case increase within the 2-year period prior to
- 6 the receipt of the petition under review;
- 7 (h) Whether a final order in a rate proceeding that established the utility's rate base, capital
- 8 structure, annual operating expenses and revenues has been issued for the utility within the 7-
- 9 year period prior to the receipt of the petition under review.
- 10 (6) The Commission will deny the petition if the petitioner does not remit the filing fee, as
- 11 provided by paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance of the
- 12 petition.
- 13 (7) Each petitioner for limited alternative rate increase shall provide the following general
- 14 information to the Commission:
- 15 (a) The name of the utility as it appears on the utility's certificate and the address of the
- 16 utility's principal place of business; and
- 17 (b) The type of business organization under which the utility's operations are conducted:
- 18 1. If the petitioner is a corporation, the date of incorporation and the names and addresses
- 19 of all persons who own five percent or more of the petitioner's stock; or
- 20 2. If the petitioner is not a corporation, the names and addresses of the owners of the
- 21 business.
- 22 (8) The petitioner shall provide a schedule showing:
- 23 (a) Annualized revenues by customer class and meter size for the most recent 12-month
- 24 period using the rates in effect at the time the utility files its petition; and
- 25 (b) Current and proposed rates for all classes of customers.

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

4 (10) A financial or engineering audit of the utility's financial or engineering books and
5 records shall not be required in conjunction with the petition under review.

6 (11) The petition will be approved, denied, or approved with modifications within 90 days
7 from the official filing date as established in subsection (4) of this rule.

8 (12) Any revenue increase granted under the provisions of this rule shall be held subject to
9 refund with interest in accordance with Rule 25-30.360, F.A.C., for a period of 15 months
10 after the filing of the utility's annual report required by Rule 25-30.110, F.A.C., for the year
11 the adjustment in rates was implemented.

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

15 (14) If, within 15 months after the filing of a utility's annual report the Commission finds
16 that the utility exceeded the range of its last authorized rate of return on equity after an
17 adjustment in rates, as authorized by this rule, was implemented within the year for which the
18 report was filed, such overearnings, up to the amount held subject to refund, with interest,
19 shall be disposed of for the benefit of the customers.

20 (15) In the event of a protest of the Proposed Agency Action Order pursuant to Rule 28-
21 106.111, F.A.C., by a substantially affected person other than the utility, unless the Proposed
22 Agency Action Order proposes a rate reduction, the utility may implement the rates
23 established in the Proposed Agency Action Order on a temporary basis subject to refund with
24 interest in accordance with Rule 25-30.360, F.A.C., upon the utility filing a staff assisted rate
25 case application pursuant to Rule 25-30.455, F.A.C., within 21 days of the date the protest is

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1 filed.

2 (16) In the event of a protest, the limit on the maximum increase provided in subsection
3 (1) of this rule shall no longer apply.

4 (17) If the utility fails to file a staff assisted rate case application within 21 days in the
5 event of a protest, the petition for a limited alternative rate increase will be deemed
6 withdrawn.

7 *Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS.*
8 *History—New 3-15-05, Amended 12-16-08, 8-10-14, _____.*

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: March 20, 2018

TO: Adria E. Harper, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst I, Division of Economics *Sk.G.*

RE: Statement of Estimated Regulatory Costs for Proposed Amendments to Rules 25-30.455, 25-30.456, and 25-30.457, Florida Administrative Code (F.A.C.)

The recommended rule revisions implement changes to the eligibility requirements for staff assistance in water and waste water rate cases. Section 367.0814, Florida Statutes (F.S.), requires that the gross annual revenue threshold level be adjusted on July 1, 2013, and every five years thereafter, based on the most recent cumulative five years of the price index established by the Commission pursuant to Section 367.081(4)(a), F.S. As noted in the attached Statement of Estimated Regulatory Costs (SERC), the amended rules would be applicable overall to 107 utilities. The specific proposed rule amendments are described below.

Rule 25-30.455, F.A.C., Staff Assistance in Rate Cases, defines the eligibility requirements for a water or wastewater utility to qualify for a Staff Assisted Rate Case (SARC). The recommended rule revisions increase the upper threshold of total gross annual operating revenues from \$275,000 to \$300,000, or from \$550,000 to \$600,000, on a combined basis.

Rule 25-30.456, F.A.C., Staff Assistance in Alternative Rate Setting, defines the eligibility requirements for a water or wastewater utility to qualify for staff assistance in alternative rate setting. The alternative rate setting process is less detailed than that conducted for a SARC and limits the maximum increase in operating revenues to 50 percent of test year operating revenues. The recommended rule revisions increase the upper eligibility threshold amount of total gross annual operating revenues from \$275,000 to \$300,000, or from \$550,000 to \$600,000, on a combined basis.

Rule 25-30.457, Limited Alternative Rate Increase, allows for a limited alternative procedure to a SARC. This procedure is less detailed than that conducted for a SARC and may allow for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service. The recommended rule revisions increase the upper eligibility threshold amount of total gross annual operating revenues from \$275,000 to \$300,000, or from \$550,000 to \$600,000, on a combined basis.

The utilities affected by the recommended rule revisions potentially may achieve cost savings as a result of lower rate case expenses. No workshop was requested in conjunction with the recommended rule revisions. 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 revisions.

cc: SERC file

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Sections 25-30.455, 456, 457, 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: The affected entities should benefit from the recommended rule changes. A summary of the recommended rule revisions is included in the attached memorandum to Counsel.

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.

107 water and wastewater systems that qualify for a staff assisted rate case.

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

The affected entities are investor-owned water and wastewater utilities.

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. The rule will only affect the Commission.
- ☐ 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.