

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

NOTICE OF DEVELOPMENT OF RULEMAKING

TO

ALL INTERESTED PERSONS

UNDOCKETED

IN RE: AMENDMENT OF 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

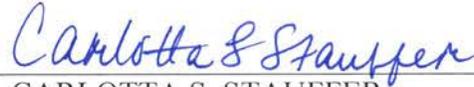
ISSUED: April 3, 2014

NOTICE is hereby given pursuant to Section 120.54, Florida Statutes, that the Florida Public Service Commission staff has initiated rulemaking to amend Rules 25-30.455, 25-30.456, and 25-30.457, Florida Administrative Code, to increase the total gross annual operating revenues of water and wastewater utilities eligible for staff assistance in rate cases, alternative rate setting, and limited alternative rate increases from \$250,000 to \$275,000 or less for water or wastewater service, and from \$500,000 to \$550,000 or less for water and wastewater service combined. These rules would also be amended to remove from the Commission's consideration in ruling on an application whether the applicant has complied in a timely manner with all Commission decisions and requests for 2 years prior to the filing of the application. In addition, Rule 25-30.457 would be amended to also remove from the Commission's consideration in ruling on an application for limited alternative rate increase whether the utility has been granted a limited alternative rate increase within 3 years prior to the receipt of the application, and whether the utility is currently in compliance with any applicable water management district permit conditions concerning rate structure.

The attached Notice of Development of Rulemaking appeared in the April 2, 2014 edition of the Florida Administrative Register. If requested in writing and not deemed unnecessary by the agency head, a rule development workshop will be scheduled and noticed in the next available Florida Administrative Register. Written requests for a rule development workshop must be submitted to Rosanne Gervasi, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850 at (850) 413-6224 by April 16, 2014. Copies of the preliminary draft rules are attached.

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By DIRECTION of the Florida Public Service Commission this 3rd day of April, 2014.



CARLOTTA S. STAUFFER

Commission Clerk

Florida Public Service Commission

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399

(850) 413-6770

www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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Notice of Development of Rulemaking

PUBLIC SERVICE COMMISSION

RULE NOS.:	RULE TITLES:
25-30.455	Staff Assistance in Rate Cases
25-30.456	Staff Assistance in Alternative Rate Setting
25-30.457	Limited Alternative Rate Increase

PURPOSE AND EFFECT: Pursuant to section 367.0814(1), Florida Statutes, Rules 25-30.455, 25-30.456, and 25-30.457 would be amended to increase the total gross annual operating revenues of water and wastewater utilities eligible for staff assistance in rate cases, alternative rate setting, and limited alternative rate increases from \$250,000 to \$275,000 or less for water or wastewater service, and from \$500,000 to \$550,000 or less for water and wastewater service combined. These rules would also be amended to remove from the Commission's consideration in ruling on an application whether the applicant has complied in a timely manner with all Commission decisions and requests for 2 years prior to the filing of the application. In addition, Rule 25-30.457 would be amended to also remove from the Commission's consideration in ruling on an application for limited alternative rate increase whether the utility has been granted a limited alternative rate increase within 3 years prior to the receipt of the application, and whether the utility is currently in compliance with any applicable water management district permit conditions concerning rate structure.

Undocketed.

SUBJECT AREA TO BE ADDRESSED: Water and wastewater utility regulation.

RULEMAKING AUTHORITY: 350.127(2), 367.0814, 367.121 FS.

LAW IMPLEMENTED: 367.0814 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Rosanne Gervasi, Florida Public Service Commission, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6224, rgervasi@psc.state.fl.us.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

1 **25-30.455 Staff Assistance in Rate Cases.**

2 (1) Water and wastewater utilities whose total gross annual operating revenues are \$275,000
3 ~~\$250,000~~ or less for water service or \$275,000 ~~\$250,000~~ or less for wastewater service, or
4 \$550,000 ~~\$500,000~~ or less on a combined basis, may petition the Commission for staff
5 assistance in rate applications by submitting a completed staff assisted rate case application. In
6 accordance with Section 367.0814(4), F.S., a utility that requests staff assistance waives its
7 right to protest by agreeing to accept the final rates and charges approved by the Commission
8 unless the final rates and charges would produce less revenue than the existing rates and
9 charges. If a utility that chooses to utilize the staff assistance option employs outside experts
10 to assist in developing information for staff or to assist in evaluating staff's schedules and
11 conclusions, the reasonable and prudent expense will be recoverable through the rates
12 developed by staff. A utility that chooses not to exercise the option of staff assistance may file
13 for a rate increase under the provisions of Rule 25-30.443, F.A.C.

14 (2) The appropriate application form, Commission Form PSC/AFD 2-W (Rev. 11/86), entitled
15 "Application for Staff Assisted Rate Case," is incorporated into this rule by reference and is
16 available at: [hyperlink]. Upon request, the Division of Accounting and Finance shall provide
17 the potential applicant with the appropriate application form, Commission Form PSC/AFD 2-
18 W (Rev. 11/86), "Application for Staff Assisted Rate Case", which is incorporated by
19 reference in this rule, and a copy of Rule 25-30.455, F.A.C., governing staff assisted rate
20 eases. The form may also be obtained from the Commission's Division of Accounting and
21 Finance, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

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

25 (4) Within 30 days of receipt of the completed application, the Commission will evaluate the
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existing law.

1 application and determine the applicant's eligibility for staff assistance. Upon receipt of a
2 completed application, the Office of Commission Clerk shall acknowledge its receipt, assign a
3 docket number for identification, and shall forward the application to a committee comprised
4 of one member each of the Commission's Divisions of Accounting and Finance, Office of
5 Auditing and Performance Analysis, and Office of General Counsel.

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

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

14 (5) Upon making its final determination of eligibility, the Commission will notify the
15 applicant in writing as to whether the application is officially accepted or denied. If the
16 application is accepted, a staff assisted rate case will be initiated. If the application is denied,
17 the notification of application denial will state the deficiencies in the application with
18 reference to the criteria set out in subsection (7) of this rule. Within 30 days of receipt of the
19 completed application, the committee shall evaluate the application and determine the
20 petitioner's eligibility for staff assistance.

21 ~~(a) If the Commission has received four or more applications in the previous 30 days; or, if the~~
22 ~~Commission has 20 or more docketed staff assisted rate cases in active status on the date the~~
23 ~~application is received, the Commission shall deny initial evaluation of an application for staff~~
24 ~~assistance and close the docket. When an application is denied under the provisions of this~~
25 ~~subsection, the applicant shall be notified of the date on which the application may be~~

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1 ~~resubmitted.~~

2 ~~(b) Initially, determinations of eligibility may be conditional, pending an actual examination~~
3 ~~of the condition of petitioner's books and records. After an initial determination of eligibility,~~
4 ~~the Office of Auditing and Performance Analysis committee shall examine the books and~~
5 ~~records of the utility before making a final determination of eligibility.~~

6 ~~(c) All recommendations of ineligibility shall be in writing and shall state the deficiencies in~~
7 ~~the application with reference to guidelines set out in subsection (8) of this rule.~~

8 ~~(6) The official date of filing will be 30 days after the date of the written notification to the~~
9 ~~applicant of the Commission's official acceptance of the application. Upon reaching a decision~~
10 ~~to officially accept or deny the application, the Deputy Executive Director, Technical shall~~
11 ~~notify the petitioner by letter and initiate staff assistance for the accepted applicant.~~

12 ~~(7) In determining whether to grant or deny the application, the Commission will consider the~~
13 ~~following criteria: The official date of filing will be 30 days after the date of the letter~~
14 ~~notifying the applicant of the official acceptance of the application by the Commission.~~

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

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

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

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

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

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

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

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- 1 ~~(8) The Commission will deny the application if the utility does not remit the filing fee, as~~
2 ~~provided by Rule 25-30.020(2)(f), F.A.C., within 30 days after official acceptance. In arriving~~
3 ~~at a recommendation whether to grant or deny the petition, the following shall be considered:~~
4 ~~(a) Whether the petitioner qualifies for staff assistance pursuant to subsection (1) of this rule;~~
5 ~~(b) Whether the petitioner's books and records are organized consistent with Rule 25-30.110,~~
6 ~~F.A.C., so as to allow commission personnel to verify costs and other relevant factors within~~
7 ~~the 30-day time frame set out in this rule;~~
8 ~~(c) Whether the petitioner has filed annual reports;~~
9 ~~(d) Whether the petitioner has paid applicable regulatory assessment fees;~~
10 ~~(e) Whether the petitioner has at least 1 year's actual experience in utility operation;~~
11 ~~(f) Whether the petitioner has filed additional relevant information in support of eligibility,~~
12 ~~together with reasons why the information should be considered;~~
13 ~~(g) Whether the petitioner has complied in a timely manner with all Commission decisions~~
14 ~~and requests affecting water and wastewater utilities for 2 years prior to the filing of the~~
15 ~~application under review;~~
16 ~~(h) Whether the utility has applied for a staff assisted rate case within the 2-year period prior~~
17 ~~to the receipt of the application under review.~~
18 ~~(9) An aggrieved applicant may request reconsideration of the application denial, which will~~
19 ~~be decided by the full Commission. The Commission will deny the application if a utility does~~
20 ~~not remit the fee as provided by Section 367.145, F.S., and paragraph 25-30.020(2)(f), F.A.C.,~~
21 ~~within 30 days after official acceptance.~~
22 ~~(10) A substantially affected person may file a petition to protest the Commission's proposed~~
23 ~~agency action in a staff assisted rate case within 21 days of issuance of the Notice of Proposed~~
24 ~~Agency Action Order, as set forth in Rule 28-106.111, F.A.C. An aggrieved petitioner may~~
25 ~~request reconsideration, which shall be decided by the full Commission.~~

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1 (11) A petition to protest the Commission's proposed agency action shall conform to Rule 28-
2 106.201, F.A.C. A substantially affected person may file a petition to protest the
3 Commission's proposed agency action in a staff assisted rate case within 21 days of issuance
4 of the Notice of Proposed Agency Action as set forth in Rule 25-22.036, F.A.C.

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

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

10 (b) Sponsor a witness to support source documentation provided to the Commission staff in its
11 preparation of the staff audit, the staff engineering and accounting report and the staff
12 proposed agency action ~~PAA~~ recommendation in the case;

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

16 (d) Meet all other requirements of the Order Establishing Procedure ~~order establishing~~
17 ~~procedures~~.

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

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

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

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1 (b) Meet all other requirements of the Order Establishing Procedure ~~order establishing~~
2 ~~procedures~~; and

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

8 *Rulemaking Authority 350.127(2), 367.0814 ~~371.0814~~, 367.121 FS. Law Implemented*
9 *367.0814 FS. History—New 12-8-80, Formerly 25-10.180, Amended 11-10-86, 8-26-91, 11-30-*
10 *93, 1-31-00, 12-16-08, _____.*

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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., water
3 and wastewater utilities whose total gross annual operating revenues are \$275,000 ~~\$250,000~~ or
4 less for water service or \$275,000 ~~\$250,000~~ or less for wastewater service, or \$550,000
5 ~~\$500,000~~ or less on a combined basis, may petition the Commission for staff assistance in
6 alternative rate setting by submitting a completed staff assisted application for alternative rate
7 setting.

8 (2) The appropriate application form, Commission Form PSC/AFD 25 (11/93), entitled
9 “Application for Staff Assistance for Alternative Rate Setting,” is incorporated into this rule
10 by reference and is available at: [hyperlink]. Upon request, the Division of Accounting and
11 Finance shall provide the potential applicant with the application form, PSC/AFD 25 (11/93),
12 titled “Application for Staff Assistance for Alternative Rate Setting” which is incorporated by
13 reference in this rule, and a copy of the rules governing Staff Assistance in Alternative Rate
14 Setting. The form may also be obtained from the Commission’s Division of Accounting and
15 Finance, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

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

19 (4) Within 30 days of receipt of the completed application, the Commission will evaluate the
20 application and determine the applicant’s eligibility for staff assistance. Upon receipt of an
21 application, the Office of Commission Clerk shall acknowledge its receipt, assign a docket
22 number for identification, and shall forward the application to the Commission’s Division of
23 Accounting and Finance.

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

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

7 (5) Upon making its final determination of eligibility, the Commission will notify the
8 applicant in writing as to whether the application is officially accepted or denied. If the
9 application is accepted, staff assistance in alternative rate setting will be initiated. If the
10 application is denied, the notification of application denial will state the deficiencies in the
11 application with reference to the criteria set out in subsection (7) of this rule. Within 30 days
12 of receipt of the completed application, the Division of Accounting and Finance shall evaluate
13 the application and determine the petitioner's eligibility for staff assistance.

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

20 ~~(b) Determinations of eligibility may be conditional, pending an actual examination of the~~
21 ~~condition of petitioner's books and records.~~

22 ~~(c) All recommendations of ineligibility shall be in writing and shall state the deficiencies in~~
23 ~~the application with reference to guidelines set out in subsection (8) of this rule.~~

24 (6) The official date of filing will be 30 days after the date of the written notification to the
25 applicant of the Commission's official acceptance of the application. Upon reaching a decision

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- 1 to officially accept or deny the application, the Deputy Executive Director, Technical shall
2 notify the applicant by letter and initiate staff assistance for the accepted applicant.
- 3 (7) In determining whether to grant or deny the application, the Commission will consider the
4 following criteria: The official date of filing will be 30 days after official acceptance of the
5 application by the Commission.
- 6 (a) Whether the applicant qualifies for staff assistance pursuant to subsection (1) of this rule;
7 (b) Whether the applicant's books and records are organized consistent with Rule 25-30.110,
8 F.A.C., so as to allow Commission personnel to verify costs and other relevant factors within
9 the 30-day time frame set out in this rule;
- 10 (c) Whether the applicant has filed annual reports;
11 (d) Whether the applicant has paid applicable regulatory assessment fees;
12 (e) Whether the applicant has at least one year of experience in utility operation;
13 (f) Whether the applicant has filed additional relevant information in support of eligibility,
14 together with reasons why the information should be considered; and
- 15 (g) Whether the utility was granted a rate case increase within the 2-year period prior to the
16 receipt of the application under review.
- 17 (8) The Commission will deny the application if a utility does not remit the filing fee, as
18 provided by Rule 25-30.020(2)(f), F.A.C., within 30 days after official acceptance. ~~In~~
19 deciding whether to grant or deny the application, the following shall be considered:
- 20 (a) Whether the applicant qualifies for staff assistance pursuant to subsection (1) of this rule;
21 (b) Whether the applicant has filed annual reports;
22 (c) Whether the applicant has paid applicable regulatory assessment fees;
23 (d) Whether the applicant has at least 1 year's actual experience in utility operation;
24 (e) Whether the applicant has filed additional relevant information in support of eligibility,
25 together with reasons why the information should be considered;

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- 1 ~~(f) Whether the applicant has made a good faith effort in a timely manner to comply with all~~
2 ~~Commission decisions and requests affecting water and wastewater utilities for 2 years prior to~~
3 ~~the filing of the application under review;~~
- 4 ~~(g) Whether the utility has been granted a staff assisted rate case or alternative rate setting~~
5 ~~within the 2-year period prior to the receipt of the application under review.~~
- 6 (9) An aggrieved applicant may request reconsideration of the application denial, which will
7 be decided by the full Commission. The Commission shall deny the application if a utility
8 does not remit the fee, as provided by Section 367.145, F.S., and paragraph 25-30.020(2)(f),
9 F.A.C., within 30 days after official acceptance.
- 10 (10) The Commission will, for the purposes of determining the amount of rate increase, if any,
11 compare the operation and maintenance expenses (O & M) of the utility to test year operating
12 revenues. The Commission will consider an allowance for return on working capital using the
13 one-eighth of O & M formula approach. An aggrieved applicant may request reconsideration
14 which shall be decided by the full Commission.
- 15 (11) The Commission will limit the maximum increase in operating revenues to 50 percent of
16 test year operating revenues. The Commission shall, for the purposes of determining the
17 amount of rate increase, if any, compare the operation and maintenance expenses (O & M) of
18 the utility to test year operating revenues. The Commission shall consider an allowance for
19 return on working capital using the one-eighth of O & M formula approach.
- 20 (12) The Commission will vote on a proposed agency action recommendation establishing
21 rates no later than 90 days from the official filing date as established in subsection (6) of this
22 rule. The Commission shall limit the maximum increase in operating revenues to 50 percent of
23 test year operating revenues.
- 24 (13) A substantially affected person may file a petition to protest the Commission's Proposed
25 Agency Action Order regarding a staff assisted alternative rate setting application within 21
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1 days of issuance of the Notice of Proposed Agency Action Order, as set forth in Rule 28-
2 106.111, F.A.C. The Commission shall vote on a proposed agency action (PAA)
3 recommendation establishing rates no later than 90 days from the official filing date as
4 established in subsection 25-30.455(7), F.A.C.

5 (14) A petition to protest the Commission's proposed agency action shall conform to Rule 28-
6 106.201, F.A.C. A substantially affected person may file a petition to protest the
7 Commission's PAA Order regarding a staff assisted alternative rate setting application within
8 21 days of issuance of the Notice of Proposed Agency Action as set forth in Rule 28-106.201,
9 F.A.C.

10 (15) In the event of protest of the Proposed Agency Action PAA Order by a substantially
11 affected person party, the rates established in the Proposed Agency Action PAA Order may be
12 implemented on a temporary basis, subject to refund with interest in accordance with Rule 25-
13 30.360, F.A.C. At that time, the utility may elect to pursue rates set pursuant to the rate base
14 determination provisions of Rule 25-30.455, F.A.C.

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

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

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

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

25 (c) Include in its testimony the necessary factual information to support its position on any
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1 | issue that it chooses to take a position different than that contained in the Commission's
2 | Proposed Agency Action PAA Order; and
3 | (d) Meet all other requirements of the Order Establishing Procedure ~~order establishing~~
4 | ~~procedures~~.
5 | (18) Failure to comply with the dates established in the Order Establishing Procedure
6 | ~~procedural order~~, or to timely file a request for extension of time for good cause shown, may
7 | result in dismissal of the staff assisted alternative rate setting application and closure of the
8 | docket.
9 | (19) In the event of protest of the Commission's Proposed Agency Action PAA Order in a
10 | staff assisted alternative rate setting application, the Commission staff shall:
11 | (a) File prefiled direct testimony to explain its analysis in the proposed agency action PAA
12 | recommendation. In the event the staff wishes to alter its PAA position on any issue, it shall
13 | provide factual testimony to support its changed position; ;
14 | (b) Meet all other requirements of the Order Establishing Procedure ~~order establishing~~
15 | ~~procedures~~; and
16 | (c) Provide to the utility materials to assist the utility in the preparation of its testimony and
17 | exhibits. This material shall consist of an example of testimony filed by a utility in another
18 | case, a sample of testimony that would support the Proposed Agency Action PAA Order in
19 | this case, an example of an exhibit filed in another case, and examples of prehearing
20 | statements and briefs filed in other cases.
21 | *Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS.*
22 | *History—New 11-30-93, Amended 1-31-00, 12-16-08,_____.*
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1 **25-30.457 Limited Alternative Rate Increase.**

2 (1) As an alternative to a staff assisted rate case as described in Rules 25-30.455, F.A.C., or to
3 staff assistance in alternative rate setting as described in Rule and 25-30.456, F.A.C., water
4 utilities whose total gross annual operating revenues are \$275,000 ~~\$250,000~~ or less for water
5 service and wastewater utilities whose total gross annual operating revenues are \$275,000
6 ~~\$250,000~~ or less for wastewater service may petition the Commission for a limited alternative
7 rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of
8 service by filing with the Office of Commission Clerk ~~submitting a completed application that~~
9 ~~includes~~ the information required by subsections (8) and (9) of this rule. ~~In accordance with~~
10 ~~Section 367.0814(6), F.S., a utility that requests staff assistance waives its right to protest by~~
11 ~~agreeing to accept the final rates and charges approved by the Commission unless the final~~
12 ~~rates and charges would produce less revenue than the existing rates and charges. The original~~
13 ~~and two copies of the application shall be filed with the Office of Commission Clerk.~~

14 (2) Within 30 days of receipt of the completed petition, the Commission will evaluate the
15 petition and determine the petitioner's eligibility for a limited alternative rate increase. ~~Upon~~
16 ~~filing a petition for a limited alternative rate increase, the utility shall mail a copy of the~~
17 ~~petition to the chief executive officer of the governing body of each municipality and county~~
18 ~~within the service areas included in the rate request and retain a copy at the utility's business~~
19 ~~office.~~

20 (3) The Commission will notify the petitioner in writing as to whether the petition is accepted
21 or denied. If the petition is accepted, staff assistance in alternative rate setting will be initiated.
22 If the petition is denied, the notification of petition denial will state the deficiencies in the
23 petition with reference to the criteria set out in subsection (5) of this rule. ~~Within 30 days of~~
24 ~~receipt of the completed application, the Division of Accounting and Finance shall evaluate~~
25 ~~the application and determine the petitioner's eligibility for a limited alternative rate increase.~~

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- 1 (4) The official date of filing will be 30 days after the date of the written notification to the
2 petitioner of the Commission's acceptance of the petition. Upon reaching a decision to
3 officially accept or deny the application, the Deputy Executive Director, Technical shall notify
4 the petitioner by letter. If the application is accepted, the Director will initiate limited
5 alternative rate setting. If the application is denied, the letter shall state the reasons for denial.
- 6 (5) In determining whether to grant or deny the petition, the Commission will consider the
7 following criteria: The official date of filing will be 30 days after official acceptance of the
8 application by the Commission.
- 9 (a) Whether the petitioner qualifies for staff assistance pursuant to subsection (1) of this rule;
10 (b) Whether the petitioner's books and records are organized consistent with Rule 25-30.110,
11 F.A.C., so as to allow Commission personnel to verify costs and other relevant factors within
12 the 30-day time frame set out in this rule;
13 (c) Whether the petitioner has filed annual reports;
14 (d) Whether the petitioner has paid applicable regulatory assessment fees;
15 (e) Whether the petitioner has at least one year of experience in utility operation;
16 (f) Whether the petitioner has filed additional relevant information in support of eligibility,
17 together with reasons why the information should be considered;
18 (g) Whether the utility was granted a rate case increase within the 2-year period prior to the
19 receipt of the petition under review; and
20 (h) Whether a final order in a rate proceeding that established the utility's rate base, capital
21 structure, annual operating expenses and revenues has been issued for the utility within the 7-
22 year period prior to the receipt of the application under review.
- 23 (6) The Commission will deny the petition if a petitioner does not remit the filing fee, as
24 provided by Rule 25-30.020(2)(f), F.A.C., within 30 days after official acceptance of the
25 petition. A utility described in subsection (1) will qualify for limited alternative rate setting if
- CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 ~~it satisfies the following criteria:~~

2 ~~(a) The petitioner has filed all annual reports required by subsection 25-30.110(3), F.A.C.;~~

3 ~~(b) The petitioner has paid applicable regulatory assessment fees as required by Rule 25-~~
4 ~~30.120, F.A.C.;~~

5 ~~(c) The petitioner has at least 1 year's actual experience in utility operation;~~

6 ~~(d) The petitioner has complied in a timely manner with all Commission decisions affecting~~
7 ~~water and wastewater utilities for 2 years prior to the filing of the application under review;~~

8 ~~(e) The utility has not been granted a staff assisted rate case pursuant to Rule 25-30.455,~~
9 ~~F.A.C., or a staff assisted alternative rate setting pursuant to Rule 25-30.456, F.A.C., within~~
10 ~~the 2-year period prior to the receipt of the application under review;~~

11 ~~(f) The utility has not been granted a limited alternative rate increase pursuant to this rule~~
12 ~~within the 3-year period prior to the receipt of the application under review;~~

13 ~~(g) The utility is currently in compliance with any applicable water management district~~
14 ~~permit conditions concerning rate structure; and~~

15 ~~(h) A final order in a rate proceeding that established the utility's rate base, capital structure,~~
16 ~~annual operating expenses and revenues has been issued for the utility within the 7-year period~~
17 ~~prior to the receipt of the application under review.~~

18 ~~(7) Each petitioner for limited alternative rate increase shall provide the following general~~
19 ~~information to the Commission: The Commission shall deny the application if a petitioner~~
20 ~~does not remit the fee, as provided by Section 367.145, F.S., and paragraph 25-30.020(2)(f),~~
21 ~~F.A.C., within 30 days after official acceptance of the application.~~

22 ~~(a) The name of the utility as it appears on the utility's certificate and the address of the~~
23 ~~utility's principal place of business; and~~

24 ~~(b) The type of business organization under which the utility's operations are conducted.~~

25 ~~1. If the petitioner is a corporation, the date of incorporation and the names and addresses of~~
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- 1 all persons who own five percent or more of the petitioner's stock; or
- 2 2. If the petitioner is not a corporation, the names and addresses of the owners of the business.
- 3 (8) The petitioner shall provide a schedule showing:
- 4 (a) Annualized revenues by customer class and meter size for the most recent 12-month period
- 5 using the rates in effect at the time the utility files its petition; and
- 6 (b) Current and proposed rates for all classes of customers. Each petitioner for limited
- 7 alternative rate increase shall provide the following general information to the Commission:
- 8 (a) The name of the utility as it appears on the utility's certificate and the address of the
- 9 utility's principal place of business; and
- 10 (b) The type of business organization under which the utility's operations are conducted: If the
- 11 petitioner is a corporation, the date of incorporation and the names and addresses of all
- 12 persons who own 5 percent or more of the petitioner's stock; if the petitioner is not a
- 13 corporation, the names and addresses of the owners of the business.
- 14 (9) The petitioner shall provide a statement that the figures and calculations upon which the
- 15 change in rates is based are accurate and that the change will not cause the utility to exceed its
- 16 last authorized rate of return on equity. The petitioner shall provide a schedule showing:
- 17 (a) Annualized revenues by customer class and meter size for the most recent 12-month period
- 18 using the rates in effect at the time the utility files its application; and
- 19 (b) Current and proposed rates for all classes of customers.
- 20 (10) A financial or engineering audit of the utility's financial or engineering books and records
- 21 shall not be required in conjunction with the petition under review. The petitioner shall
- 22 provide a statement that the figures and calculations upon which the change in rates is based
- 23 are accurate and that the change will not cause the utility to exceed its last authorized rate of
- 24 return on equity.
- 25 (11) The petition will be approved, denied, or approved with modifications within 90 days

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1 ~~from the official filing date as established in subsection (4) of this rule. A financial or~~
2 ~~engineering audit of the utility's financial or engineering books and records shall not be~~
3 ~~required in conjunction with the application under review.~~

4 (12) Any revenue increase granted under the provisions of this rule shall be subject to refund
5 with interest in accordance with Rule 25-30.360, F.A.C., for a period of 15 months after the
6 filing of the utility's annual report required by Rule 25-30.110, F.A.C., for the year the
7 adjustment in rates was implemented. The application will be approved, denied, or approved
8 with modifications within 90 days from the official filing date as established in subsection (5)
9 above.

10 (13) If, within 15 months after the filing of a utility's annual report, the Commission finds that
11 the utility exceeded the range of its last authorized rate of return on equity after an adjustment
12 in rates, as authorized by this rule, was implemented within the year for which the report was
13 filed, such overearnings, up to the amount held subject to refund, with interest, shall be
14 disposed of for the benefit of the customers. In consideration of subsections (11) and (12), the
15 utility agrees to hold any revenue increase granted under the provisions of this rule subject to
16 refund with interest in accordance with Rule 25-30.360, F.A.C., for a period of 15 months
17 after the filing of the utility's annual report required by Section 367.121, F.S., for the year the
18 adjustment in rates was implemented.

19 (14) In the event of a protest of the Proposed Agency Action Order pursuant to Rule 28-
20 106.111, F.A.C., by a substantially affected person other than the utility, unless the Proposed
21 Agency Action Order proposes a rate reduction, the utility may implement the rates
22 established in the Proposed Agency Action Order on a temporary basis subject to refund with
23 interest in accordance with Rule 25-30.360, F.A.C., upon the utility filing a staff assisted rate
24 case application pursuant to Rule 25-30.455, F.A.C., within 21 days of the date the protest is
25 filed. To insure overearnings will not occur due to the implementation of this rate increase, the

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1 Commission will conduct an earnings review of the utility's annual report to determine any
2 potential overearnings for the year the adjustment in rates was implemented.

3 (15) In the event of a protest, the limit on the maximum increase provided in subsection (1) of
4 this rule shall no longer apply. ~~If, within 15 months after the filing of a utility's annual report~~
5 ~~required by Section 367.121, F.S., the Commission finds that the utility exceeded the range of~~
6 ~~its last authorized rate of return on equity after an adjustment in rates, as authorized by this~~
7 ~~rule, was implemented within the year for which the report was filed, such overearnings, up to~~
8 ~~the amount held subject to refund, with interest, shall be disposed of for the benefit of the~~
9 ~~eustomers as provided in Section 367.081(4)(d), F.S.~~

10 (16) If the utility fails to file a staff assisted rate case application within 21 days in the event of
11 a protest, the application for a limited alternative rate increase will be deemed withdrawn. ~~In~~
12 ~~the event of a protest of the proposed agency action (PAA) order pursuant to Rule 28-106.201,~~
13 ~~F.A.C., by a substantially affected person other than the utility, unless the PAA Order~~
14 ~~proposes a rate reduction, the utility may implement the rates established in the PAA Order on~~
15 ~~a temporary basis upon the utility filing a staff assisted rate case application pursuant to Rule~~
16 ~~25-30.455, F.A.C., within 21 days of the date the protest is filed.~~

17 (17) ~~In the event of a protest, the limit on the maximum increase provided in subsection (1)~~
18 ~~above shall no longer apply.~~

19 (18) ~~If the utility fails to file a staff assisted rate case application within 21 days in the event~~
20 ~~there is a protest, the application for a limited alternative rate increase will be deemed~~
21 ~~withdrawn.~~

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

23 *History—New 3-15-05, Amended 12-16-08, _____.*