

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Initiation of rulemaking to amend Rule 25-30.445, F.A.C., general information and instructions required of water and wastewater utilities in an application for a limited proceeding

UNDOCKETED

FILED: August 10, 2016

**OFFICE OF PUBLIC COUNSEL'S COMMENTS REGARDING
FLORIDA PUBLIC SERVICE COMMISSION STAFF'S
NOTICE OF DEVELOPMENT OF RULEMAKING**

Pursuant to the Florida Public Service Commission ("PSC" or "Commission") Staff's Notice of Development of Rulemaking to amend Rule 25-30.445, Florida Administrative Code ("F.A.C."), issued on July 27, 2016, the Office of Public Counsel ("OPC") offers the following comments:

OPC agrees with the proposed language because it addresses the inclusion of certain water utility customer complaints and the utility's most recent secondary water quality standards test results in a limited proceeding application. Specifically, the customer complaints in question are those that have been received by a utility during the past five years regarding secondary water quality standards set by the Florida Department of Environmental Protection ("DEP").

OPC believes that the inclusion of these customer complaints and test results will provide a more complete record and additional transparency to the process. Overall, customer input on these water quality issues plus the most recent test results will not only allow PSC Staff to conduct a more thorough evaluation of the case, but will also allow all affected parties and Commissioners to gain a greater understanding of issues that are important to water utility customers.

OPC strongly disagrees with the comments of Martin S. Friedman, Esq., which were submitted via e-mail on July 31, 2016 on behalf of Utilities, Inc. of Florida. In OPC's view, Rule 25-30.445, F.A.C., should not be amended to include a specific deadline for the Commission to act on limited proceedings, including Mr. Friedman's proposal "that 5 months is a reasonable time within which the Commission should be able to rule on a limited proceeding", which would presumably "help to insulate the Commission from political involvement."

OPC notes that the Florida Statutes require an 8-month deadline for the Commission to act on petitions for rate relief through full administrative hearings and a 5-month deadline for the Commission to act on proposed agency action proceedings, subject to a Section 120.57(2), Florida Statutes, hearing. Both of these deadlines are specifically included in Chapters 366 and 367, Florida Statutes.

OPC also points out that the PSC set a 90-day deadline to vote on a proposed agency action recommendation establishing rates in Rule 25-30.456, F.A.C., which addresses Staff Assistance in Alternative Rate Setting.

In summary, both the Florida Legislature and the Commission have already identified instances where a deadline for the Commission to act is warranted. However, there are proceedings where flexibility is paramount and no deadline should be set. To OPC's knowledge, the lack of a deadline in limited proceedings does not present a hardship for any party, and Utilities, Inc. of Florida's comments are akin to "a solution in search of a problem." Therefore, OPC is strongly opposed to setting a deadline for the Commission to act on limited proceedings.

Based on these comments, OPC does not believe that a Rule Development Workshop is needed at this time to amend Rule 25-30.445, F.A.C.

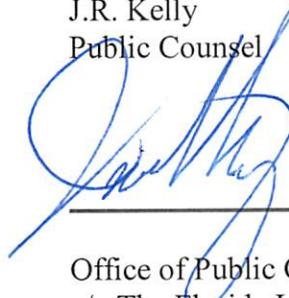
CONCLUSION

The Office of Public Counsel respectfully requests the Commission to consider these comments as it proceeds to review Staff's Notice of Development of Rulemaking to amend Rule 25-30.445, F.A.C.

Please do not hesitate to contact me if you have any questions regarding these comments.

Sincerely,

J.R. Kelly
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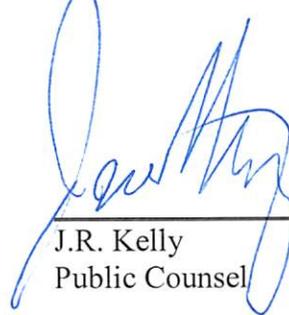
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing OFFICE OF PUBLIC COUNSEL'S COMMENTS REGARDING FLORIDA PUBLIC SERVICE COMMISSION STAFF'S NOTICE OF DEVELOPMENT OF RULEMAKING has been furnished electronic mail to the following parties on this 10th day of August, 2016:

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