

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:** January 30, 2017  
**TO:** Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk  
**FROM:** Adria Harper, Office of the General Counsel  
**RE:** Docket No.160223-WS

---

*Aeffl*

Please file the attached rule certification packet for Rules 25-30.425 and 25-30.455, F.A.C., in the docket file listed above.

Thank you.

Attachment

RECEIVED-FPSC  
2017 JAN 30 AM 11:09  
COMMISSION  
CLERK

COMMISSIONERS:  
JULIE I. BROWN, CHAIRMAN  
DONALD J. POLMANN  
ART GRAHAM  
RONALD A. BRISÉ  
JIMMY PATRONIS

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL  
KEITH C. HETRICK  
GENERAL COUNSEL  
(850) 413-6199

# Public Service Commission

January 30, 2017

Mr. Ernest Reddick  
Florida Department of State  
Administrative Code and Register Section  
Room 701, the Capitol  
Tallahassee, FL 32399-0250

VIA HAND DELIVERY

FILE  
017 JAN 30 10:19:28  
OFFICE OF THE GENERAL COUNSEL

**Re: Rule Certification Packet for Rules 25-30.425 and 25-30.455, F.A.C.**

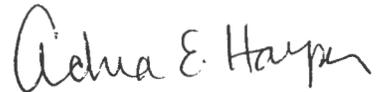
Dear Mr. Reddick:

Enclosed for filing is a complete rule certification packet for Rules 25-30.425 and 25-30.455, F.A.C., consisting of:

- (1) One compact disc containing the coded text of the rules;
- (2) There are no materials incorporated by reference into these rules;
- (3) One original and two copies of the signed rule certification form;
- (4) One original and two copies of the coded text of the rules, including the legal citations and history notes;
- (5) One original and two copies of the summary of the rules;
- (6) One original and two copies of the detailed written statement of the facts and circumstances justifying the rules; and
- (7) One original and two copies of the summary of the hearings held on the rules.

Please let me know if you have any questions. The contact name and information for this rule are Adria Harper, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6082, aharper@psc.state.fl.us.

Sincerely,

A handwritten signature in black ink that reads "Adria E. Harper". The signature is written in a cursive style with a large initial "A".

Adria Harper  
Senior Attorney

Enclosures

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION  
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Nos.

25-30.425

25-30.455

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_  
(month) (day) (year)

Carlotta S. Stauffer  
CARLOTTA S. STAUFFER

Commission Clerk \_\_\_\_\_  
Title \_\_\_\_\_  
Number of Pages Certified 11

25-30.425 Pass Through Rate Adjustment.

The verified notice to the Commission of an adjustment of rates under the provisions of Section 367.081(4)(b), F.S., shall be made in the following manner:

(1) This rule applies ~~Prior to any regulated water or wastewater utility that adjusts its an adjustment in rates pursuant to Section 367.081(4)(b), F.S., to reflect because of an increase or decrease in the rates, fees, or costs for the following specified expenses~~ purchased utility service, the utility shall file:

(a) ~~A certified copy of the order, ordinance or other evidence whereby the rates for Water or wastewater utility service purchased from a are increased or decreased by the governmental authority agency or other by a water or wastewater utility regulated by the Commission; along with evidence of the utility service rates of that governmental agency or water or wastewater utility in effect on January 1 of each of the three preceding years.~~

(b) Purchased electric power; ~~A statement setting out by month the charges for utility services purchased from the governmental agency or regulated utility for the most recent 12-month period.~~

(c) Ad valorem taxes; ~~1. A statement setting out by month the gallons of water or wastewater treatment purchased from the governmental agency or regulated utility for the most recent 12-month period. If wastewater treatment service is not based on a metered flow, the number of units by which the service is measured shall be stated.~~

~~2. A statement setting out by month gallons of water and units of wastewater service sold by the utility for the most recent 12-month period.~~

(d) National Pollutant Discharge Elimination System (NPDES) Permit Program fees charged by the Florida Department of Environmental Protection; ~~A statement setting out by month the gallons of water or wastewater treatment purchased from any other government entity or utility company.~~

(e) Regulatory Assessment Fees imposed ~~A statement setting out by the Commission; month the gallons of water pumped or wastewater treated by the utility filing the verified notice.~~

(f) ~~If the total Wwater or wastewater quality testing required by the Department of Environmental Protection (DEP); available for sale is in excess of 110% of the water sold, a statement explaining the unaccounted for water.~~

(g) Wastewater biosolids disposal fees;

(h) Tank inspection required by the DEP or a local governmental authority;

(i) Treatment plant operator and water distribution system operator license fees required by the DEP or a local

governmental authority;

(j) Water or wastewater operating permit fees charged by the DEP or a local governmental authority; or

(k) Consumptive or water use permit fees charged by a water management district.

(2) Prior to an adjustment in rates pursuant to Section 367.081(4)(b), F.S., because of an increase or decrease in the charge for electric power the utility shall file its verified notice and supporting documents with the Commission's Division of Accounting and Finance at least 45 days prior to the effective date of its pass through rate adjustment, or at least 60 days prior to the effective date of its combined or simultaneously filed price index and pass through rate adjustments if the utility requests an exception to the 45 day effective date, as referenced in paragraph (2)(h), to allow the price index and pass through rate adjustments to be implemented as one rate adjustment pursuant to Section 367.081(4)(e), F.S. Each verified notice of a pass through rate adjustment shall include the following supporting documents. If the same information or supporting document is required for both the price index and pass through rate adjustments, such as revised tariff sheets, annualized revenue calculations, return on equity affirmations, and customer notices, the applicant may file a combined supporting document to be used for both applications:

(a) Revised tariff sheets reflecting the increased or decreased rates; A certified copy of the order, ordinance or other evidence which establishes that the rates for electric power have been increased or decreased by the supplier, along with evidence of the electric power rates of the supplier in effect on January 1 of each of the three preceding years.

(b) A schedule showing, by month, the calculation of charges for electric power and consumption for the proposed rates, including most recent 12-month period, the following information. If the pass through rate adjustment is combined with a price index rate adjustment, a combined schedule that shows the calculation of both the price index and pass through rate adjustments may be provided: charges that would have resulted had the new electric rates been applied, and the difference between the charges under the old rates and the charges under the new rates.

1. The calculation of the recurring annual or amortized annual amount of the new expense or incremental change calculated as referenced in subsection (3);

2. The utility's actual annual revenue or calculation of the annualized revenue for the most recent 12-month period, or 12-month test year if combined or simultaneously filed with a price index application. If there were any

Commission-approved changes to the utility's rates during the 12-month period or test year, the revenue should be annualized to reflect the revenue that would have resulted if the rate change had been in effect the entire 12 months. The annualized revenue calculation should reflect the annual number of bills broken down by customer class and meter size, and the annual gallons of water or wastewater service sold broken down by customer class. Annualized revenues should be calculated separately if the utility provides both water and wastewater service;

3. If the pass through of an increase or decrease in purchased water or wastewater utility service, purchased power, or wastewater biosolids disposal is applied only to the gallonage charge in the rate adjustment calculation, provide a schedule showing the gallons of water or wastewater service sold during each month of the most recent 12-month period or test year, broken down by customer class and meter size, if not shown in the revenue calculation previously provided in subparagraph (2)(b)2. above; and

4. The calculation of the proposed rates that shows the current rates, dollar amount of the pass through increase or decrease, and proposed adjusted rates. The percentage increase or decrease resulting from the pass through adjustment for any specified expense may be applied to all rates equally or allocated between the base facility charge and gallonage charge based on the following guidelines:

i. The percentage increase or decrease in purchased water or wastewater utility service, purchased power, or wastewater biosolids disposal may be applied solely to the gallonage charge;

ii. The percentage increase or decrease in ad valorem taxes may be applied solely to the base facility charge;

iii. The percentage increase or decrease in any specified expense that was adjusted using a specific allocation methodology in the utility's last rate proceeding or in a prior pass through adjustment may be applied using that same methodology; and

iv. The percentage increase or decrease in any specified expense that reflects a single assessment to the water and wastewater systems combined may be allocated between the water and wastewater rates based on the equivalent residential connection ratio of water and wastewater customers;

(c) A copy of statement outlining the current invoice, proof of payment, or other documentation that demonstrates that measures taken by the specified expense has been adjusted or is a new requirement. If the specified expense is an existing expense that was not previously included in the utility's rates, also provide a statement confirming that the specified expense has never been embedded in the utility's rates; utility to conserve electricity.

(d) A copy of the invoice(s) or other documentation that supports the utility's calculation of the recurring annual or amortized annual increase or decrease in the specified expense referenced in subparagraph (2)(b)1., as follows:

1. For a frequently recurring specified expense, such as purchased power, provide a copy of all invoices received for the most recent 12-month period or test year;

2. For a specified expense that occurs on an annual basis, such as ad valorem taxes, provide a copy of the invoice received for the prior year;

3. For a specified expense that occurs less than annually, such as NPDES permit program fees, provide a copy of the invoice received the last time the expense occurred; or

4. For the pass through of an incremental increase or decrease in regulatory assessment fees that were previously included in the utility's rates by another governmental entity prior to the Commission's regulation of the utility, provide documentation that shows the percentage or amount of regulatory assessment fees that were previously included in the utility's rates, such as a copy of an order, ordinance, rate calculation, or other available information that can be used to determine and verify the percentage of regulatory assessment fees that were previously included in the utility's rates.

(e) The utility's DEP Public Water System identification number and Wastewater Treatment Plant Operating Permit number;

(f) The affirmation required by Section 367.081(4)(c), F.S., including the rate of return on equity that the utility is affirming it will not exceed with this rate adjustment;

(g) A copy of the notice to customers required by subsection (6); and,

(h) If applicable, a statement that the utility requests an exception to the 45 day effective date provided by Section 367.081(4)(b), F.S., to allow combined or simultaneously filed price index and pass through rate adjustments to be implemented together as one rate adjustment pursuant to Section 367.081(4)(e), F.S., with an effective date 60 days after the official filing date of the utility's notice of intention to increase rates through a price index rate adjustment filed pursuant to Section 367.081(4)(a) and Rule 25-30.420(2), F.A.C.

(3) The recurring annual or amortized annual amount Prior to an adjustment in rates because of an increase or decrease in ad valorem taxes the new expense or incremental change utility shall be calculated as follows file with the Commission:

(a) The change in aA frequently recurring specified expense, such as purchased power, copy of the ad valorem

~~tax bills which increased or decreased shall be calculated as an annual and copies of the previous three years' bills; if copies have been submitted previously, a schedule showing the tax total, broken down by month for the most recent 12-month period or for the 12-month test year if combined or simultaneously filed with a price index rate adjustment. The calculation shall reflect the following information: only is acceptable; and~~

1. All charges or fees included in the total specified expense, such as the purchased water or wastewater base facility charge, gallonage charge, any applicable billing or service fees, and taxes, even if some of the rates or fees did not change;

2. The actual or annualized charges for the specified expense. If the rates or charges for the specified expense changed during the 12-month period or test year, the actual charges should be annualized to reflect the charges that would have resulted if the prior rates or charges had been in effect the entire 12 months;

3. The annualized charges that would have resulted if the new rates had been in effect the entire 12 months;

4. The difference between the charges at the prior and new rates; and

5. If the utility's most recent rate proceeding included adjustments for excessive unaccounted for water (EUW) or excessive inflow and infiltration (I&I), the calculation of an increase or decrease in purchased water or wastewater utility service or purchased electric power shall also include the same percentage EUW or I&I adjustments. If the utility has taken steps to reduce EUW or I&I since its most recent rate proceeding, the utility may, but is not required to, provide additional information to demonstrate that the EUW or I&I percentages have been reduced. Any proposed revision to the EUW or I&I percentages should be calculated as referenced in subsection (4);

~~(b) The change in aA specified expense calculation of the amount of the ad valorem taxes related to that occurs on an annual basis, such as ad valorem taxes, shall be calculated as an annual total based on a comparison of the prior expense and new expense. If applicable, the calculation of the increase or decrease portion of the water or wastewater plant not used and useful in ad valorem taxes only shall include the following additional adjustments: in providing utility service.~~

1. If any ad valorem tax bills reflect a single assessment for combined water and wastewater property, the calculation shall also include the utility's calculation of the equivalent residential connection ratio of water and wastewater customers used to allocate the combined tax assessment between the utility's water and wastewater rates; and

2. If the utility's last rate proceeding included adjustments for non-used and useful plant, the calculation shall also include an adjustment to remove the portion of the ad valorem taxes related to the water or wastewater plant that is not used and useful in providing utility service;

(c) The change in a specified expense that occurs less than annually, such as NPDES permit program fees, shall be calculated as an annual amortized amount based on a comparison of the prior and new expense. The expense shall be amortized as a non-recurring expense in accordance with Rule 25-30.433(8), F.A.C., and the calculation shall include an explanation if the expense is amortized for a period other than five years.

(4) Prior to an adjustment in rates because of an increase or decrease in ~~the pass through~~ costs of changes water quality or wastewater quality testing required by the Department of Environmental Protection (DEP), or because of an increase or decrease in purchased water or wastewater utility service or purchased electric power shall be adjusted for EUW or I&I consistent with adjustments approved by the fees charged by DEP in connection with the National Pollutant Discharge Elimination System Program, the utility shall file with the Commission in the utility's most recent rate proceeding, if applicable. If the utility has taken steps to reduce the EUW and I&I percentages since its most recent rate proceeding, the utility may, but is not required, to provide the following information to demonstrate that the EUW and I&I percentages have been reduced and that the previously approved EUW and I&I percentages should either be reduced or eliminated from the pass through rate adjustment calculation:

(a) A description ~~copy~~ of any steps taken by the utility to reduce the EUW or I&I since the utility's last rate proceeding ~~invoice for testing~~; and,

(b) A schedule showing the updated ~~c~~Calculation of EUW or I&I broken down by month for the most recent 12-month period or test year including: ~~amortized amount.~~

1. The gallons of water or wastewater treatment purchased from the governmental authority or regulated utility that has increased or decreased its rates. If wastewater treatment service is not based on a metered flow, describe how the wastewater flows are determined and include the number of units by which the service is measured;

2. If the utility purchases water or wastewater service from more than one governmental authority or regulated utility, include the gallons of water or wastewater treatment purchased from any other governmental authority or regulated utility not reflected in subparagraph (4)(b)1. above. If wastewater treatment service is not based on a metered flow, describe how the wastewater flows are determined and include the number of units by which the service is measured;

3. The gallons of water pumped or wastewater treated by the utility, if applicable;
4. The gallons of water or wastewater service sold by the utility;
5. The total unaccounted for water or inflow and infiltration; and
6. A statement explaining the EUW or I&I if the total water available for sale or total wastewater treatment purchased is still in excess of 110 percent of the water or wastewater service sold.

(5) The amount administratively approved for a pass through rate adjustment ~~In addition to subsections (1), (2), (3) and (4) above, the utility shall not exceed the actual cost incurred. Foregone pass through decreases shall not be used to adjust a pass through increase below the actual cost incurred.~~ also file:

(a) ~~A schedule of proposed rates which will pass the increased or decreased costs on to the customers in a fair and nondiscriminatory manner and on the basis of current customers, and a calculation showing how the rates were determined;~~

(b) ~~A statement, by class of customer and meter size, setting out by month the gallons of water and units of wastewater service sold by the utility for the most recent 12-month period. This statement shall not be required in filings for the pass-through of increased regulatory assessment fees or ad valorem taxes;~~

(c) ~~The affirmation reflecting the authorized rate of return on equity required by Section 367.081(4)(c), F.S.;~~

(d) ~~A copy of the notice to customers required by subsection (7) of this rule;~~

(e) ~~Revised tariff sheets reflecting the increased rates;~~

(f) ~~The rate of return on equity that the utility is affirming it will not exceed pursuant to Section 367.081(4)(c), F.S.; and~~

(g) ~~The utility's DEP Public Water System identification number and Wastewater Treatment Plant Operating Permit number;~~

(6) The utility shall provide each customer with written notice of the administratively approved rate adjustment, including the effective date and an explanation of the reasons for the increase or decrease, prior to the time each customer will begin consumption at the adjusted rates. If the pass through rate adjustment is combined or simultaneously filed with a price index rate adjustment, the utility may provide the information for both rate adjustments in a combined customer notice ~~amount authorized for pass through rate adjustments shall not exceed the actual cost incurred and shall not exceed the incremental increase or decrease for the 12-month period. Foregone pass through decreases shall not be used to adjust a pass through increase below the actual cost incurred.~~

(7) In order for the Commission to determine whether a utility which had adjusted its rates pursuant to Section 367.081(4)(b), F.S., has thereby exceeded the range of its last authorized rate of return, the Commission may require a utility to file the information required in Rule 25-30.437, F.A.C., for the test year specified.

(8) Prior to the time a customer begins consumption at the adjusted rates, the utility shall notify each customer of the increase authorized and explain the reasons for the increase.

(9) The utility shall file an original and five copies of the verified notice and supporting documents with the Commission Clerk. The rates shall become effective 45 days after the official date of filing. The official date of filing for the verified notice to the Commission of adjustment in rates shall be at least 45 days before the new rates are implemented.

*Rulemaking Authority 350.127(2), 367.081, 367.121(1)(c), (f) FS. Law Implemented 367.081(4), 367.121(1)(c), (g) FS. History—New 6-10-75, Amended 4-5-79, 4-5-81, 10-21-82, Formerly 25-10.179, Amended 11-10-86, 6-5-91, 4-18-99, \_\_\_\_\_.*

25-30.455 Staff Assistance in Rate Cases.

(1) 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, or \$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. ~~If a utility that chooses to utilize the staff assistance option employs outside experts to assist in developing information for staff or to assist in evaluating staff's schedules and conclusions, the~~ Reasonable and prudent rate case expense shall will be eligible for recovery recoverable 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 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 may be resubmitted.

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

(5) Upon making its final determination of eligibility, the Commission will notify the applicant in writing as to whether the application is officially accepted or denied. If the application is accepted, a staff assisted rate case will

be initiated. If the application is denied, the notification of application denial will state the deficiencies in the application with reference to the criteria set out in subsection (7) of this rule.

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

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

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

(b) Whether the applicant's 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 applicant has filed annual reports;

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

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

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

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

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

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

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

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

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

(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 audit, the staff engineering and accounting report 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.

(13) 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 rate case and closure of the docket.

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

(a) File prefiled direct testimony to explain its analysis in the staff 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, an example 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. History—New 12-8-80, Formerly 25-10.180, Amended 11-10-86, 8-26-91, 11-30-93, 1-31-00, 12-16-08, 8-10-14, \_\_\_\_\_.*

## SUMMARY OF THE RULES

Rule 25-30.425, F.A.C., implements Section 367.081(4)(b), F.S., which allows for water and wastewater utilities regulated by the Commission to use pass-through provisions to obtain rate increases or decreases without the requirements for a rate proceeding. Rule 25-30.455, F.A.C., implements Section 367.081, F.S., and Section 367.0814, F.S., and provides rate case expenses for water and wastewater utilities under certain, specified circumstances in Commission staff assisted rate cases.

### WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Rule 25-30.425, F.A.C., implements Section 367.081(4)(b), F.S., which allows for water and wastewater utilities regulated by the Commission to use pass-through provisions to obtain rate increases or decreases without the requirements for a rate proceeding. In 2016 the Florida Legislature modified subsection 367.081(4)(b), F.S., to expand the types of specified expenses that are eligible for a pass-through adjustment to include: (a) fees charged for wastewater biosolids disposal, (b) costs incurred for a tank inspection required by DEP or a local governmental authority, (c) treatment plant operator and water distribution system license fees required by DEP or a local governmental authority, (d) water or wastewater operating permit fees charged by DEP or a local governmental authority, and (e) consumptive or water use permit fees charged by a water management district. Rule 25-30.425, F.A.C., is amended to assist applicants by setting forth the documentation and information that the Commission requires from utilities to evaluate the utilities' submissions for recovery of pass-through costs.

Rule 25-30.455, F.A.C., implements Section 367.0814(3), F.S., which was amended in the 2016 legislative session to specify that the Commission may not award rate case expenses to recover attorney fees or fees of other outside consultants who are engaged for the purpose of preparing or filing the case if a utility receives staff assistance in changing rates and charges pursuant to this section, unless the Office of Public Counsel or interested parties have intervened. The statute as amended provides that the Commission may award rate case expenses for attorney fees or fees of other outside consultants if such fees are incurred for the purpose of providing consulting or legal services to the utility after the initial staff report is made available to customers and the utility. The amended statute also provides that if there is a protest or appeal by a party other than the utility, the Commission may award rate case expenses to the utility for attorney fees or fees of other outside consultants for costs incurred after the protest or appeal. Thus, amendments to Rule 25-30.455, F.A.C., implement the amendments to Section 367.0814(3), F.S., made in the 2016 legislation.

SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.