

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: May 10, 2017
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Rosanne Gervasi, Office of the General Counsel *RG*
RE: Docket No. 160239-WS

Please file the attached rule certification packet for Rule 25-30.445, F.A.C., in the docket file listed above.

Thank you.

Attachment

COMMISSION
CLERK

2017 MAY 10 PM 3:02

RECEIVED-FPSC

COMMISSIONERS:
JULIE I. BROWN, CHAIRMAN
LISA POLAK EDGAR
ART GRAHAM
RONALD A. BRISÉ
JIMMY PATRONIS

STATE OF FLORIDA



CAPITAL CIRCLE OFFICE CENTER
2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FL 32399-0850

Public Service Commission

May 10, 2017

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

VIA HAND DELIVERY

FILED
2017 MAY 10 AM 10:45
TALLAHASSEE, FLORIDA

Re: Rule Certification Packet for Rule 25-30.445, F.A.C.

Dear Mr. Reddick:

Enclosed for filing is a complete rule certification packet for Rule 25-30.445, F.A.C., consisting of:

- (1) One compact disc containing the coded text of the rule;
- (2) One original and two copies of the e-mail approval confirmations with the certification form required by Rule 1-1.013, F.A.C., for the materials incorporated by reference that were filed electronically;
- (3) One original and two copies of the signed rule certification form;
- (4) One original and two copies of the coded text of the rule, including the legal citations and history notes;
- (5) One original and two copies of the summary of the rule;
- (6) One original and two copies of the detailed written statement of the facts and circumstances justifying the rule; and
- (7) One original and two copies of the summary of the hearings held on the rule.

Please let me know if you have any questions. The contact name and information for this rule are Rosanne Gervasi, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6224, rgervasi@psc.state.fl.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Rosanne Gervasi". The signature is fluid and cursive, with a prominent initial "R" and "G".

Rosanne Gervasi
Senior Attorney

Enclosures

Julie Phillips

From: FL-Rules@dos.state.fl.us
Sent: Thursday, May 04, 2017 10:18 AM
To: Julie Phillips
Cc: firules@dos.state.fl.us
Subject: 25-30.445 Reference Material for Rule Adoption Approved

Dear JPhillips:

The reference material for rule adoption you submitted has been approved by the Administrative Code and Register Staff.

The approved material is available in the [Review/Modify Agency Reference Material](#) list (Agency Main Menu page).

Rule Number: 25-30.445

Reference Number: Ref-08251; Reference Name: Schedule E-2, "Revenue Schedule at Present and Proposed Rates"

Click [here](#) to log in.

Administrative Code and Register Staff
Florida Department of State

Julie Phillips

From: FL-Rules@dos.state.fl.us
Sent: Thursday, May 04, 2017 10:19 AM
To: Julie Phillips
Cc: flrules@dos.state.fl.us
Subject: 25-30.445 Reference Material for Rule Adoption Approved

Dear JPhillips:

The reference material for rule adoption you submitted has been approved by the Administrative Code and Register Staff.

The approved material is available in the [Review/Modify Agency Reference Material](#) list (Agency Main Menu page).

Rule Number: 25-30.445

Reference Number: Ref-08252; Reference Name: Schedule E-14, "Billing Analysis Schedules"

Click [here](#) to log in.

Administrative Code and Register Staff
Florida Department of State

CERTIFICATION OF MATERIALS INCORPORATED

BY REFERENCE IN RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify pursuant to Rule 1-1.013, Florida Administrative Code:

(1) That materials incorporated by reference in Rule 25-30.445 have been electronically filed with the Department of State.

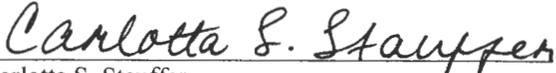
(2) That because there would be a violation of federal copyright laws if the submitting agency filed the incorporated materials described below electronically, a true and complete paper copy of the incorporated materials are attached to this certification for filing. Paper copies of the incorporated materials below may be obtained at the agency by [include address(es)/location(s)].

List form number(s) and form title(s), or title of document(s) below:

Schedule E-2, "Revenue Schedule at Present and Proposed Rates"

Schedule E-14, "Billing Analysis Schedule"

Under the provisions of Section 120.54(3)(e)6., F. S., the attached material(s) take effect 20 days from the date filed with the Department of State, or a later date as specified in the rule.


Carlotta S. Stauffer

Commission Clerk

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.

25-30.445

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 5

25-30.445 General Information and Instructions Required of Water and Wastewater Utilities in an Application for a Limited Proceeding.

(1) Each applicant for a limited proceeding shall provide the following general information to the Commission:

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

(b) The type of business organization under which the applicant's operations are conducted; if the applicant is a corporation, the date of incorporation; the names and addresses of all persons who own 5 percent or more of the applicant's stock; or the names and addresses of the owners of the business.

(c) The number(s) of the Commission order(s), if any, in which the Commission most recently considered the applicant's rates for the system(s) involved.

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

(e) A statement signed by an officer of the utility that the utility will comply with the noticing requirements in Rule 25-30.446, F.A.C.

(2) In a limited proceeding application:

(a) Each schedule shall be cross-referenced to identify related schedules.

(b) Except for handwritten official company records, all data in the petition and application shall be typed.

(c) The original and seven copies shall be filed with the Office of Commission Clerk.

(3) A filing fee as required in Rule 25-30.020, F.A.C., shall be submitted at the time of application.

(4) The following minimum filing requirements shall be filed with the utility's application for limited proceeding for a Class A or B water or wastewater utility:

(a) A detailed statement of the reason(s) why the limited proceeding has been requested.

(b) If the limited proceeding is being requested to recover costs required by a governmental or regulatory agency, provide the following:

1. A copy of any rule, regulation, order or other regulatory directive that has required or will require the applicant to make the improvement or the investment for which the applicant seeks recovery.

2. An estimate by a professional engineer, or other person, knowledgeable in design and construction of water and wastewater plants, to establish the projected cost of the applicant's investment and the period of time required

for completion of construction.

(c) A schedule that provides the specific rate base components for which the utility seeks recovery. Supporting detail shall be provided for each item requested, including:

1. The actual or projected cost(s);
2. The date the item will be or is projected to be placed in service;
3. Any corresponding adjustments that are required as a result of adding or removing the requested component(s) from rate base, which may include retirement entries; and
4. Any other relevant supporting information.

(d) If the utility's application includes a request for recovery of plant in service, accumulated depreciation and depreciation expense, supporting detail shall be provided by primary account as defined by the NARUC Uniform System of Accounts, in accordance with Rule 25-30.110, F.A.C.

(e) A calculation of the weighted average cost of capital shall be provided for the most recent 12-month period, using the mid-point of the range of the last authorized rate of return on equity, the current embedded cost of fixed-rate capital, the actual cost of short-term debt, the actual cost of variable-cost debt, and the actual cost of other sources of capital which were used in the last individual rate proceeding of the utility. If the utility does not have an authorized rate of return on equity, the utility shall use the current leverage formula pursuant to Section 367.081(4)(f), F.S.

(f) If the utility is requesting recovery of operating expenses, the following information shall be provided:

1. A detailed description of the expense(s) requested;
2. The total cost by primary account pursuant to the NARUC Uniform System of Accounts;
3. Supporting documentation or calculations; and
4. Any allocations that are made between systems, affiliates or related parties. If allocations are made, submit full detail that shows the total amount allocated, a description of the basis of the allocation methodology, the allocation percentage applied to each allocated cost, and the workpapers supporting the calculation of the allocation percentages.

(g) Calculations for all items that will create cost savings or revenue impacts from the implementation of the requested cost recovery items.

(h) If the utility includes any other items where calculations are required, supporting documentation shall be

filed that reflects the calculations or assumptions made.

(i) A calculation of the revenue increase including regulatory assessment fees and income taxes, if appropriate.

(j) Annualized revenues for the most recent 12-month period using the rates in effect at the time the utility files its application for limited proceeding and a schedule reflecting this calculation by customer class and meter size.

(k) A schedule of current and proposed rates for all classes of customers.

(l) Schedules for the most recent 12-month period showing that, without any increased rates, the utility will earn below its authorized rate of return in accordance with Section 367.082, F.S. The schedules shall consist of a rate base, net operating income and cost of capital schedule with adjustments to reflect those consistent with the utility's last rate proceeding.

(m) If the limited proceeding is being requested to change the current rate structure, provide a copy of all workpapers and calculations used to calculate requested rates and allocations between each customer class. The test year shall ~~should~~ be the most recent 12-month period. In addition, the following schedules, which are incorporated herein by reference, from Form PSC/AFD 19-W (11/93), entitled "Class A Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing Requirements", shall ~~should~~ be provided. The schedules can be obtained from the Commission's Division of Accounting and Finance.

1. Schedule E-2, entitled "Revenue Schedule at Present and Proposed Rates," is available at
<http://www.flrules.org/Gateway/reference.asp?No=Ref-08251>.

2. Schedule E-14, entitled "Billing Analysis Schedules," is available at
<http://www.flrules.org/Gateway/reference.asp?No=Ref-08252>. Only two copies are required.

(n) Revised tariff sheets should not be filed with the application.

(c) A water utility's application for limited proceeding shall also include:

1. A copy of all customer complaints that the utility has received regarding DEP secondary water quality standards during the past five years; and

2. A copy of the utility's most recent secondary water quality standards test results.

(5) In addition to the requirements stated in subsections (1) through (3), the following minimum filing requirements shall be filed with the utility's application for limited proceeding for a Class C water or wastewater utility:

(a) A detailed statement of the reason(s) why the limited proceeding has been requested.

(b) If the limited proceeding is being requested to recover costs required by a governmental or regulatory agency, provide a copy of any rule, regulation, order or other regulatory directive that has required or will require the applicant to make the improvement or the investment for which the applicant seeks recovery.

(c) A schedule that provides the specific rate base components for which the utility seeks recovery, if known.

Supporting detail shall be provided for each item requested, including:

1. The actual or projected cost(s);
2. The date the item will be or is projected to be placed in service;
3. Any corresponding adjustments, if known, that are required as a result of adding or removing the requested component(s) from rate base, which may include retirement entries; and
4. Any other relevant supporting information, if known.

(d) If the utility is requesting recovery of operating expenses, provide an itemized description of the expense(s), including the cost and any available supporting documentation or calculations.

(e) Provide a description of any known items that will create cost savings or revenue impacts from the implementation of the requested cost recovery items.

(f) A calculation of the revenue increase including regulatory assessment fees and income taxes, if applicable.

(g) Annualized revenues for the most recent 12-month period using the rates in effect at the time the utility files its application for limited proceeding and a schedule reflecting this calculation by customer class and meter size.

(h) A Class C water utility's application for limited proceeding shall also include:

1. A copy of all customer complaints that the utility has received regarding DEP secondary water quality standards during the past five years; and

2. A copy of the utility's most recent secondary water quality standards test results.

(6) In evaluating whether the utility's request is improper for a limited proceeding, the Commission will consider factors such as:

(a) Whether the utility's filing includes more than 4 separate projects for which recovery is sought and the requested rate increase exceeds 30 percent. Corresponding adjustments for a given project are not subject to the above limitation;

(b) Whether the utility has not had a rate case in more than seven years and the requested rate increase exceeds 30 percent; or

(c) Whether the limited proceeding is filed as the result of the complete elimination of either the water or wastewater treatment process and the requested rate increase exceeds 30 percent.

(7) The utility shall provide a statement in its filing to the Commission which addresses whether the utility's rate base has declined or whether any expense recovery sought by the utility is offset by customer growth since its most recent rate proceeding or will be offset by future customer growth expected to occur within one year of the date new rates are implemented.

~~(8) A limited proceeding application shall not be filed for underearnings in lieu of a general rate case.~~

Rulemaking Authority 350.127(2), 367.121(1)(a) FS. Law Implemented 367.081, 367.0812, 367.0822,

367.121(1)(a), 367.145(2) FS. History—New 3-1-04, Amended

SUMMARY OF THE RULE

Rule 25-30.445, F.A.C., sets forth the general information, instructions, and minimum filing requirements for water and wastewater utilities in an application for a limited proceeding. Among other things, the rule requires an applicant to provide a detailed statement of the reasons(s) why the limited proceeding is being requested, a schedule providing the specific rate base components for which the applicant seeks recovery, and schedules for the most recent 12-month period showing that, without increased rates, the utility will earn below its authorized rate of return. In addition, the rule disallows the filing of a limited proceeding application for underearnings in lieu of a general rate case.

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

To promote clarity and consistency among Commission rules, and to assist the Commission in considering the extent to which a utility provides service that meets secondary water quality standards when evaluating an application for a limited proceeding, the Commission is amending Rule 25-30.445, F.A.C., to require that when applying for a limited proceeding, water and wastewater utilities must provide the same information pertaining to secondary water quality standards as are contained in Rule 25-30.440, F.A.C., Additional Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase. That additional information includes the submission of a water utility's most recent secondary water quality standards test results as set by the Department of Environmental Protection (DEP) and a copy of all customer complaints that the utility has received regarding secondary water quality standards during the past five years. Rule 25-30.443(1), F.A.C., makes Rule 25-30.440 applicable to Class C utilities seeking a rate increase, as well.

The Commission is also eliminating the requirement contained in Rule 25-30.445(8), F.A.C., that a limited proceeding application shall not be filed for underearnings in lieu of a general rate case. That paragraph was intended to prevent utilities from inappropriately using the limited proceeding process to avoid a general rate case filing in which all costs of the utility would be fully evaluated. However, it could potentially be interpreted to prohibit justifiable increases simply because a utility is in an underearnings position, or would be in an underearnings position if the costs being sought for recovery are incurred, and it suggests that unless a utility is earning within its authorized range, it would be prohibited from using the limited proceeding process. As such, Rule 25-30.445(8) unnecessarily restricts the use of the limited proceeding process, which was designed to save regulatory costs to the utility, its customers, and the Commission.

SUMMARY OF ANY HEARINGS HELD ON THE RULE

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