

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-**

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**DATE:** May 23, 2018

**TO:** Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk

**FROM:** Adria Harper, Office of the General Counsel *AH*

**RE:** Docket No. 20180041-WU

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Please file the attached rule certification packet materials for Rule 25-30.455, Staff Assisted Rate Cases, Rule 25-30.456, Staff Assistance in Alternative Rate Setting, and Rule 25-30.457, Limited Alternative Rate Increase, F.A.C. in the docket file listed above.

Thank you.

Attachment

RECEIVED-FPSC  
2018 MAY 23 PM 3:40  
COMMISSION  
CLERK

COMMISSIONERS:  
ART GRAHAM, CHAIRMAN  
JULIE I. BROWN  
DONALD J. POLMANN  
GARY F. CLARK  
ANDREW GILES FAY

STATE OF FLORIDA



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

# Public Service Commission

May 23, 2018

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

VIA HAND DELIVERY

**Re: Rule Certification Packet for Rule 25-30.455, Staff Assisted Rate Cases, Rule 25-30.456, Staff Assistance in Alternative Rate Setting, Rule 25-30.457, Limited Alternative Rate Increase, F.A.C.**

Dear Mr. Reddick:

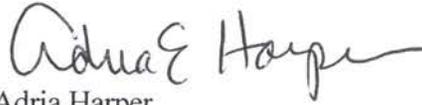
Enclosed for filing is a complete rule certification packet for Rules 25-30.455, 25-30.456 and 25-30.457, F.A.C., consisting of:

- (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 signed designation of minor violation rule certification form required by Rule 1-1.010, F.A.C.;
- (5) One original and two copies of the coded text of the rules, including the legal citations and history notes;
- (6) One original and two copies of the summary of the rules;
- (7) One original and two copies of the detailed written statement of the facts and circumstances justifying the rules; and
- (8) One original and two copies of the summary of the hearings held on the rules.

2018 MAY 23 PM 2:28  
FILED  
DEPT. OF STATE  
TALLAHASSEE, FLORIDA

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 Harper". The signature is written in a cursive style with a long horizontal flourish at the end.

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.

25-30.455

25-30.456

25-30.457

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: July 1, 2018  
(month) (day) (year)

Carlotta S. Stauffer  
CARLOTTA S. STAUFFER

Commission Clerk  
Title  
10  
Number of Pages Certified

**DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION  
CERTIFICATION**

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule No(s).

25-30.455

25-30.456

25-30.457

Rules covered by this certification:

Rule No(s).

25-30.455

25-30.456

25-30.457



\_\_\_\_\_  
Signature of Agency Head

Chairman, Florida Public Service Commission

Title

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

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

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

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

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

(a) If the Commission has received four or more applications in the previous 30 days; or, if the Commission has 20 or more docketed staff assisted rate cases in active status on the date the application is received, the Commission will deny initial evaluation of an application for staff assistance and close the docket. When an application is denied under the provisions of this paragraph, the Commission will notify the applicant of the date on which the application 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, 2-19-17, \_\_\_\_\_.*

**25-30.456 Staff Assistance in Alternative Rate Setting.**

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

(2) The appropriate application form, Commission Form PSC/AFD 25 (11/93) (Rev. 06/14), entitled "Application for Staff Assistance for Alternative Rate Setting," is incorporated into this rule by reference and is available at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04414>. The form may also be obtained from the Commission's Division of Accounting and Finance, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

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

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

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

(b) Determinations of eligibility will be conditional, pending an examination of the 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, staff assistance in alternative rate setting 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) The Commission will, for the purposes of determining the amount of rate increase, if any, compare the operation and maintenance expenses (O & M) of the utility to test year operating revenues. The Commission will consider an allowance for return on working capital using the one-eighth of O & M formula approach.

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

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

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

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

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

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

(17) In the event of a protest of the Commission's Proposed Agency Action Order in a staff assisted alternative rate setting application, 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 engineering and accounting analysis and the staff proposed agency action recommendation in the case;

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

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

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

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

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

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

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

*Rulemaking Authority 350.127(2), 367.0814, 367.121 FS. Law Implemented 367.0814 FS. History—New 11-30-93,  
Amended 1-31-00, 12-16-08, 8-10-14, \_\_\_\_\_.*

**25-30.457 Limited Alternative Rate Increase.**

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

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

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

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

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

- (a) Whether the petitioner qualifies for staff assistance pursuant to subsection (1) of this rule;
- (b) Whether the petitioners' books and records are organized consistent with Rule 25-30.110, F.A.C, so as to allow Commission personnel to verify costs and other relevant factors within the 30-day time frame set out in this rule;
- (c) Whether the petitioner has filed annual reports;
- (d) Whether the petitioner has paid applicable regulatory assessment fees;
- (e) Whether the petitioner has at least one year of experience in utility operation;
- (f) Whether the petitioner has filed additional relevant information in support of eligibility together with reasons why the information should be considered;
- (g) Whether the utility was granted a rate case increase within the 2-year period prior to the receipt of the petition under review;
- (h) Whether a final order in a rate proceeding that established the utility's rate base, capital structure, annual

operating expenses and revenues has been issued for the utility within the 7-year period prior to the receipt of the petition under review.

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

(7) Each petitioner for limited alternative rate increase shall provide the following general information to the Commission:

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

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

1. If the petitioner is a corporation, the date of incorporation and the names and addresses of all persons who own five percent or more of the petitioner's stock; or

2. If the petitioner is not a corporation, the names and addresses of the owners of the business.

(8) The petitioner shall provide a schedule showing:

(a) Annualized revenues by customer class and meter size for the most recent 12-month period using the rates in effect at the time the utility files its petition; and

(b) Current and proposed rates for all classes of customers.

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

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

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

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

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

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

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

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

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

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

## SUMMARY OF THE RULE

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

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

Rules 25-30.455, 25-30.456, Rule 25-30.457, Florida Administrative Code (F.A.C), address the gross annual revenue thresholds that determine eligibility for water and wastewater utilities to receive staff assistance from the Commission for staff assisted rate cases. Pursuant to Section 367.0814(1), Florida Statutes (F.S.), the Commission must adjust the gross annual revenue thresholds that determine eligibility on July 1, 2013, and every five years thereafter, based on the most recent cumulative five years of the price index established by the Commission pursuant to Section 367.081(4), F.S. Therefore, the purpose of the rule amendments is to adjust the gross annual revenue thresholds for staff assisted rate cases, in accordance with Section 367.0814(1), F.S.

The rule amendments will increase the total gross annual operating revenue thresholds for eligibility set forth in each rule to \$300,000 or less for water service, or \$300,000 or less for wastewater service. In addition, the rule amendments for Rules 25-30.455, and 25-30.456, F.A.C., will increase the total gross annual operating revenues to \$600,000 or less on a combined basis, for staff assisted rate case applications and staff assistance in alternative rate settings.

### SUMMARY OF ANY HEARINGS HELD ON THE RULE

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