

STATE OF FLORIDA

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

# Public Service Commission

February 8, 2019

Kenneth J. Plante, Coordinator  
Joint Administrative Procedures Committee  
Room 680, Pepper Building  
111 W. Madison Street  
Tallahassee, FL 32399-1400

HAND DELIVERY

Re: Docket No. 20180141-WS; Rule 25-30.4575, Operating Ratio Methodology, F.A.C.

Dear Mr. Plante:

Enclosed are the following materials concerning the above referenced proposed rule:

1. A copy of the proposed rule.
2. There are no materials incorporated by reference in the rule.
3. A copy of the F.A.R. notice.
4. A statement of facts and circumstances justifying the proposed rule.
5. A federal standards statement.
6. Statement of Estimated Regulatory Costs for the rule.

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2019 FEB - 8 AM 10: 59  
PROV. REG. COMM.

If there are any questions with respect to these rules, please do not hesitate to call me at 413-6082.

Sincerely,

Adria Harper  
Senior Attorney

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2019 FEB - 8 PM 1: 47  
COMMISSION

Enclosures

cc: Office of Commission Clerk

1     **25-30.4575 Operating Ratio Methodology.**

2     (1) Under the operating ratio methodology, instead of calculating the utility's revenue  
3 requirement based on a rate of return on the utility's rate base, the revenue requirement  
4 includes the utility's operating expenses plus a margin of 12 percent of the utility's operation  
5 and maintenance expenses. For utilities that are resellers, purchased water and purchased  
6 wastewater expenses will be removed from operation and maintenance expense before the 12  
7 percent margin is applied. The operating ratio adjustment shall be no more than \$15,000.

8     (2) In rate cases processed under Rule 25-30.455, F.A.C, the Commission will use the  
9 operating ratio methodology to establish the utility's revenue requirement when:

10     (a) The utility's rate base is no greater than 125% of operation and maintenance expenses;  
11 and

12     (b) The use of the operating ratio methodology does not change the utility's qualification  
13 for a staff assisted rate case under subsection 25-30.455(1), F.A.C.

14 Rulemaking Authority 367.0814(9) FS. Law Implemented 367.0814(9) FS. History-  
15 New\_\_\_\_\_.

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## Notice of Proposed Rule

### **PUBLIC SERVICE COMMISSION**

RULE NO:        RULE TITLE:

25-30.4575      Operating Ratio Methodology

PURPOSE AND EFFECT: To codify the Commission's use of the operating ratio methodology for water and wastewater utilities in staff assisted rate cases.

Docket No. 20180141-WS

SUMMARY: The operating ratio methodology assists the small water and wastewater utilities in staff assisted rate cases by substituting operation and maintenance expenses for rate base in calculating the amount of return component of revenue requirement. The operating ratio methodology will only be used for those utilities whose rate base is no greater than 125 percent of operation and maintenance expenses and will only be used for utilities that continue to qualify for a staff assisted rate case. The operating ratio methodology allows eligible utilities to receive margin of 12 percent of the utility's operation and maintenance expenses. Eligible utilities will not receive more than a \$15,000 margin.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. The SERC examined the factors required by subsection 120.541(2), FS, and concluded that the rule will not have an adverse impact on economic growth, business competitiveness, or small business and that there would likely be transactional cost savings to the individual and entities, including government entities, required to comply with the rule

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based on the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 367.0814(9) FS.

LAW IMPLEMENTED: 367.0814(9) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Adria Harper, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6082, aharper@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

#### 25-30.4575 Operating Ratio Methodology.

(1) Under the operating ratio methodology, instead of calculating the utility's revenue requirement based on a rate of return on the utility's rate base, the revenue requirement includes the utility's operating expenses plus a margin of 12 percent of the utility's operation and maintenance expenses. For utilities that are resellers, purchased water and purchased wastewater expenses will be removed from operation and maintenance expense before the 12 percent margin is applied. The operating ratio adjustment shall be no more than \$15,000.

(2) In rate cases processed under Rule 25-30.455, F.A.C., the Commission will use the operating ratio methodology to establish the utility's revenue requirement when:

(a) The utility's rate base is no greater than 125% of operation and maintenance expenses; and

(b) The use of the operating ratio methodology does not change the utility's qualification for a staff assisted rate case under subsection 25-30.455(1), F.A.C.

Rulemaking Authority 367.0814(9) FS. Law Implemented 367.0814(9) FS. History- New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cissy Galloway

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 5, 2019.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 43, Number 229, November 29, 2017.

STATEMENT OF FACTS AND CIRCUMSTANCES  
JUSTIFYING RULE

Pursuant to Section 367.0814(9), Florida Statutes (F.S.), the Commission may by rule establish standards and procedures whereby rates and charges of small utilities are set using criteria other than those set forth in Sections 367.081(1), (2)(a) and (3), F.S. Rule 25-30.4575, Operating Ratio Methodology, Florida Administrative Code (F.A.C.), will be a new rule that sets forth the Commission's policy on the use of the operating ratio methodology in staff-assisted rate cases. The operating ratio methodology is used to determine the revenue requirement in certain staff-assisted water and wastewater rate cases and is an alternative to the traditional calculation of revenue requirement for smaller water and wastewater utilities.

The operating ratio methodology will only be used for those utilities whose rate base is no greater than 125 percent of operation and maintenance expenses and will only be used for utilities that continue to qualify for a staff assisted rate case. The operating ratio methodology allows eligible utilities to receive margin of 12 percent of the utility's operation and maintenance expenses. Eligible utilities will not receive more than a \$15,000 margin.

STATEMENT ON FEDERAL STANDARDS

There are no federal standards for this rule.





# 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:** November 15, 2018

**TO:** Adria E. Harper, Senior Attorney, Office of the General Counsel

**FROM:** Sevini K. Guffey, Public Utility Analyst II, Division of Economics *S.K.G.*

**RE:** Statement of Estimated Regulatory Costs for Proposed Adoption of Rule 25-30.4575, Florida Administrative Code (F.A.C.), Operating Ratio Methodology

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The operating ratio methodology is an alternative to the traditional calculation of revenue requirement for smaller water and wastewater utilities and was first implemented by the Commission in 1996. The purpose of the proposed new Rule 25-30.4575, F.A.C., is to codify the Commission practice of using the operating ratio methodology when determining the revenue requirement in staff assisted rate cases for water and wastewater utilities.

Subsection (1) of Rule 25-30.4575, F.A.C., provides that the operating ratio methodology calculates the water and water utility's revenue requirement based on the utilities' operating expenses plus a margin of 12 percent of the utilities' operation and maintenance expenses and the operating ratio adjustment shall be capped at \$15,000. For utilities that are resellers, their purchased water and wastewater expenses will be removed from the operation and maintenance expense before the 12 percent margin is applied.

Subsection (2) of Rule 25-30.4575, F.A.C., provides that the operating ratio methodology may only be used for utilities whose rate base is no greater than 125 percent of operation and maintenance expenses and when the use of the operating ratio methodology would not change the utility's eligibility for a staff assisted rate case under Rule 25-30.455(1), F.A.C.

Although the new rule applies to 132 investor-owned water and wastewater utilities, not all will qualify for the operating ratio methodology due to the rate base criteria contained in the proposed rule. A workshop to solicit input on the recommended rule was conducted by Commission staff on December 14, 2017. Several comments were received during the workshop from the Office of the Public Counsel (OPC) and a representative of U.S. Water Services Corporation (U.S. Water). Post-workshop written comments were received from OPC and U.S. Water.

At the October 30, 2018 Agenda Conference, OPC asked the Commission to defer the item so that OPC and staff could further discuss a potential compromise on rule language. The Commission deferred the item. On November 8, 2018, staff held an informal meeting on the rule, which included OPC, U.S. Water, Jeff Small with OCBOA Consulting, LLC, and Mike Smallridge.

The attached Statement of Estimated Regulatory Costs (SERC) addresses the considerations required pursuant to Section 120.541, Florida Statutes (F.S.). No regulatory alternatives were submitted pursuant to Paragraph 120.541(1)(a), F.S. None of the impacts/cost criteria established in Paragraph 120.541(2)(a), F.S. will be exceeded as a result of the recommended revisions.

cc: SERC File

FLORIDA PUBLIC SERVICE COMMISSION  
STATEMENT OF ESTIMATED REGULATORY COSTS  
Chapter 25-30.4575, F.A.C.

1. Will the proposed rule have an adverse impact on small business?  
[120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes

No

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes

No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?  
[120.541(2)(a)1, F.S.]

Economic growth Yes  No

Private-sector job creation or employment Yes  No

Private-sector investment Yes  No

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?  
[120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets) Yes  No

Productivity Yes  No

Innovation Yes  No



(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes

No

Economic Analysis: A summary of the recommended new rule is included in the attached memorandum to Counsel. Staff believes that none of the impacts/cost criteria established in Paragraph 120.541(2)(a), F.S. will be exceeded as a result of the proposed new rule. The proposed new rule is not imposing any new regulatory requirements, only codifying existing Commission practice of using a variation of the rate of return methodology in determining that revenue requirement for staff assisted rate cases.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

Potentially affected entities include 132 investor-owned water and wastewater utilities that serve approximately 177,256 customers in Florida. Water and wastewater utilities which come under the jurisdiction of the Commission in the future also may be affected by the new rule.

(2) A general description of the types of individuals likely to be affected by the rule.

The 132 investor-owned water and wastewater utilities and customers of those utilities are likely to be affected by this rule.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

None. To be done with the current workload and existing staff.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- None.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule.  
[120.541(2)(d), F.S.]

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

E. An analysis of the impact on small businesses, and small counties and small cities:  
[120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall

include both personal and business investments.

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- No impact on small cities or small counties.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful.  
[120.541(2)(f), F.S.]

- None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

- No regulatory alternatives were submitted.
- A regulatory alternative was received from
  - Adopted in its entirety.



Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.