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| State of Florida  pscSEAL | | 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: | April 22, 2021 | | |
| TO: | Office of Commission Clerk (Teitzman) | | |
| FROM: | Office of the General Counsel (DuVal) SMC  Division of Economics (Bethea, Sibley, Guffey, Hudson) JGH | | |
| RE: | Docket No. 20200240-WS – Proposed amendment of Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges. | | |
| AGENDA: | 05/04/21 – Regular Agenda – Rule Proposal – Interested Persons May Participate | | |
| COMMISSIONERS ASSIGNED: | | | All Commissioners |
| PREHEARING OFFICER: | | | La Rosa |
| RULE STATUS: | | | Proposal May Be Deferred |
| SPECIAL INSTRUCTIONS: | | | None |

Case Background

This rulemaking was initiated to update Rule 25-30.460, Florida Administrative Code (F.A.C.), which addresses water and wastewater utility miscellaneous service charges. Notice of Rule Development for this rule appeared in the July 16, 2020 edition of the Florida Administrative Register, Vol. 46, No. 138. No rule development workshop was requested, and a rule development workshop was not held.

This recommendation addresses whether the Commission should propose the amendment of Rule 25-30.460, F.A.C. The Commission has jurisdiction pursuant to Sections 120.54, 350.127(2), 367.081, 367.091, and 367.121, Florida Statutes (F.S.).

Discussion of Issues

Issue 1:

 Should the Commission propose amendments to Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges?

Recommendation:

 Yes, the Commission should propose amendments to Rule 25-30.460, F.A.C., as set forth in Attachment A. The Commission should certify Rule 25-30.460, F.A.C., as a minor violation rule. (DuVal, Bethea, Sibley, Guffey, Hudson)

Staff Analysis:

 Staff recommends several amendments to Rule 25-30.460, F.A.C., as set forth in Attachment A. These recommended amendments will add clarity and specificity to the rule language. Additionally, they will update the rule to define the various miscellaneous service charges for which water and wastewater utilities may request the Commission’s approval. The draft amendments to Rule 25-30.460, F.A.C., are discussed below.

Subsection (1): Utilities’ Assessment of Miscellaneous Service Charges

Subsection (1) of the rule addresses the water and wastewater utilities’ ability to request Commission approval of miscellaneous service charges and sets forth parameters by which such charges may be levied.

The draft amendments to subsection (1) clarify that utilities providing both water and wastewater services should assess only one instance of a miscellaneous service charge for a single event. When miscellaneous service charges are designed, they are for the utility as a whole. The miscellaneous service charges appear in both the water and wastewater tariffs. However, for utilities that offer both water and wastewater services, miscellaneous service charges are not intended to be individual system charges. The Commission-approved tariffs for miscellaneous service charges currently contain language addressing the applicability of the charges; explaining that only one instance of a charge is appropriate for a single event when the utility provides both water and wastewater services. This recommended amendment clarifies the rule language and adds consistency to utilities’ interpretation and application of the rule language.

The draft amendments to subsection (1) also remove references to current miscellaneous service charges categories, as these are revised with updated definitions in staff’s draft amendments to subsection (2).

Subsection (2): Definitions of Miscellaneous Service Charges

Staff is recommending a new subsection (2) to the rule. Draft subsection (2) updates the definitions of current miscellaneous service charges to reflect the evolution of certain charges, to correct any lack of consistency regarding costs and services included within the current charges, and to resolve any ambiguity in the existing definitions. Draft subsection (2) also includes additional miscellaneous service charges that the Commission considers for approval.

Draft paragraphs (2)(a) and (b) provide updated definitions for premises visit and violation reconnection charges to resolve any inconsistency or ambiguity between the existing definitions of initial connections, normal reconnections, violation reconnections, and premises visit charges. Staff removed the definitions for initial connection charges and normal reconnection charges because those services are reflected in the draft definition of the premises visit charge.

Draft paragraph (2)(c) defines a convenience charge as a charge that is levied when a customer pays a utility bill with a debit or credit card. Draft paragraph (2)(d) defines an investigation of meter tampering charge as a charge that is levied when an investigation reveals unauthorized connection to, or tampering with, a utility’s meter or equipment, pursuant to paragraph 25-30.320(2)(j), F.A.C. Draft paragraph (2)(e) defines a late payment charge as a charge that is levied when a customer is delinquent in paying a bill for service, pursuant to subsection 25-30.335(4), F.A.C. Draft paragraph (2)(f) defines a non-sufficient funds charge as a charge that is levied when a customer’s payment is refused by the drawee because of lack of funds, credit, or an account, pursuant to Section 68.065, F.S.

Subsection (3): After Hours Charges

Draft subsection (3) is new to the rule and replaces the language of current subsection (2) that addresses after hours charges. Staff’s draft subsection (3) language simplifies the definition of the after hours charge and removes any ambiguity in the existing definition.

Minor Violation Rules Certification

Pursuant to Section 120.695, F.S., for each rule filed for adoption, the agency head must certify whether any part of the rule is designated as a rule the violation of which would be a minor violation. Rule 25-30.460, F.A.C., is currently listed on the Commission’s website as a rule for which a violation would be minor because violation of the rule would not result in economic or physical harm to a person or have an adverse effect on the public health, safety, or welfare or create a significant threat of such harm.

The amendments to Rule 25-30.460, F.A.C., would not change its status as a minor violation rule. Thus, staff recommends that the Commission certify Rule 25-30.460, F.A.C., as a minor violation rule.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54(3)(b), F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. The SERC is appended as Attachment B to this recommendation.

The SERC concludes that the rule amendments will not likely directly or indirectly increase regulatory costs in excess of $200,000 in the aggregate in Florida within one year after implementation. Further, the SERC economic analysis concludes that the rule amendments will not likely have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of $1 million in the aggregate within five years of implementation. Thus, the rules do not require legislative ratification pursuant to Section 120.541(3), F.S.

In addition, the SERC states that the rule amendments will not have an adverse impact on small business and will have no impact on small cities or counties. The SERC also concludes that the recommended amendments will not result in increased transactional costs to utilities required to comply with the rule, and, instead, will result in cost reductions and administrative efficiencies. No regulatory alternatives were submitted pursuant to Section 120.541(1)(a), F.S. None of the impact/cost criteria established in Section 120.541(2)(a), F.S., will be exceeded as a result of the recommended amendments to Rule 25-30.460, F.A.C.

Conclusion

Staff recommends that the Commission propose the amendment of Rule 25-30.460, F.A.C., as set forth in Attachment A. Staff further recommends that the Commission should certify Rule 25-30.460, F.A.C., as a minor violation rule.

Staff notes that if and when the rule amendments go into effect, there will not be an immediate impact on or change to water and wastewater utilities’ existing tariffs. The existing tariffs will remain in effect, and the tariffs would be reviewed on a prospective basis to ensure conformance with the amended rule. Staff envisions that this tariff review would be conducted when a company applies for a new miscellaneous service charge under the amended rule.

Issue 2:

 Should this docket be closed?

Recommendation:

 Yes. If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or Joint Administrative Procedures Committee (JAPC) comments are filed, the rule should be filed with the Department of State, and the docket should be closed. (DuVal)

Staff Analysis:

 If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or JAPC comments are filed, the rule should be filed with the Department of State, and the docket should be closed.

**25-30.460 Application for Miscellaneous Service Charges.**

(1) All water and wastewater utilities may apply for miscellaneous service charges~~.~~ and t~~T~~hese charges shall be included in each company’s tariff. If a utility provides both water and wastewater services, only a single charge shall be assessed for each of the miscellaneous service charges identified in subsection (2). ~~and include rates for initial connections, normal reconnections, violation reconnections, and premises visit charges.~~

(2) The following identifies and defines miscellaneous service charges:

(a) A premises visit charge is levied when a service representative visits a premises to discontinue service for nonpayment of a due and collectible bill and the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill and service is not discontinued. A premises visit charge is also levied when a service representative visits a premises at the customer’s request to (1) initiate service, (2) temporarily disconnect service, (3) reconnect service after a temporary discontinuance, or (4) assess a service issue and it is found to be the customer’s responsibility. ~~Initial connection charges are levied for service initiation at a location where service did not exist previously.~~

~~(b) Normal reconnection charges are levied for transfer of service to a new customer account at a previously served location, or reconnection of service subsequent to a customer requested disconnection.~~

(b)~~(c)~~ A v~~V~~iolation reconnection ~~is a~~ charge ~~that~~ is levied prior to reconnection of an existing customer after discontinuance of service for cause according to subsection 25-30.320(2), F.A.C.~~, including a delinquency in bill payment.~~ Violation reconnection charges are at the tariffed rate for discontinuation of water service and actual cost for discontinuation of wastewater service.

(c)~~(d)~~ A convenience charge is levied when a utility bill is paid by debit or credit card. ~~Premises Visit Charge is levied when a service representative visits a premises at the customer’s request for complaint resolution and the problem is found to be the customer’s responsibility.~~

(d)~~(e)~~ An investigation of meter tampering charge is levied when an investigation reveals evidence of unauthorized connection to, or tampering with, the utility’s meter or equipment, pursuant to paragraph 25-30.320(2)(j), F.A.C. ~~Premises Visit Charge (in lieu of disconnection) is levied when a service representative visits a premises for the purpose of discontinuing service for nonpayment of a due and collectible bill and does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.~~

(e) A late payment charge is levied when a customer is delinquent in paying a bill for service, pursuant to subsection 25-30.335(4), F.A.C.

(f) A non-sufficient funds charge is levied when a customer’s payment is refused by the drawee because of lack of funds, lack of credit, or lack of an account, pursuant to Section 68.065, F.S.

~~(2) A utility may request an additional charge (“after hours charge”) for overtime when the customer requests that the service be performed after normal hours. The after hours charge may be at the same rate specified for the existing charge during normal working hours. If the utility seeks a charge other than the normal working hours charge, the utility must file cost support.~~

(3) A utility may apply for after hours charges for a premises visit charge or violation reconnection charge to account for the overtime when the customer requests that the service be performed after normal business hours.

*Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.121, 367.091 FS. History–New 11-30-93, Amended* *.*

