

FLORIDA COMMUNITY WATER SYSTEMS, INC.

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FPSC - COMMISSION CLERK

December 5, 2022

Office of Commission Clerk
Florida Public Service Commission
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Re: Docket No. 20220201-WU - Petition for Variance or Waiver of Rule 25-30.445, Florida Administrative Code by Florida Community Water Systems, Inc. in Brevard, Lake and Sumter Counties

Dear Commission Clerk,

Florida Community Water Systems, Inc. (FCWS) hereby petitions the Florida Public Service Commission for a partial variance or waiver of a requirement of Rule 25-30.445, Florida Administrative Code (F.A.C.) pursuant to Section 120.542, Florida Statutes (F.S.). In support of this Petition, FCWS asserts the following:

1. The name and address of the Petitioner is:

Florida Community Water Systems, Inc.
4939 Cross Bayou Blvd.
New Port Richey, FL 34652
Telephone: (727) 848-8292

2. The name, address and telephone number of the authorized representative to contact concerning this Petition is:

Troy Rendell
U.S. Water Services Corporation, Inc.
4939 Cross Bayous Blvd.
New Port Richey, FL 34652
Telephone: (727) 848-8292

3. This Petition is related to Docket No. 20220201-WS, Request by Florida Community Water Systems, Inc. for a revenue-neutral rate restructuring in Brevard, Lake, and Sumter Counties.
4. Rule 25-30.445, Florida Administrative Code (F.A.C.) provides general instructions and requirements for water and wastewater utilities filing for a limited proceeding.

5. The majority of Rule 25-30.445, F.A.C. is related to requests for an *increase* in rates for either recovery of capital items or operating expenses.
6. In the instant docket, FCWS is not requesting an increase in revenues or recovery of capital items or operating expenses. FCWS is merely requesting a revenue neutral rate restructuring based upon existing historical revenues.
7. Section 25-30.445(6), F.A.C. states that a limited proceeding will not be allowed if the utility has not had a rate case within seven years of the date the petition for limited proceeding is filed with the Commission.
8. As stated in its application the majority of FCWS systems have had rate cases within the past seven years, with the exception of two; Harbor and Black Bear.
9. Harbor and Black Bear's rates and rate structure have been in existence since being certificated, with the exception of minor index increases.
10. FCWS is not requesting a revenue requirement be set by the Commission. Black Bear and Harbor's rate bases have previously been set by the Commission in the transfer dockets. (see Order No. PSC-12-0587-PAA-WU and PSC-16-0169-PAA-WU)
11. FCWS believes that the provision in Section 25-30.445(6), F.A.C. is related to the Commission previously approving a utility's rate base and operating expenses. FCWS is not requesting an establishment of rate base or the prudence of operating expenses. This is a request for a rate restructuring based upon existing revenues.
12. The Commission still retains its right to conduct an audit in this LIMP, as well as its continued oversight in earnings surveillance in review of the FCWS's Annual Reports. Thus, the purpose of the underlying statute will still be achieved by other means.
13. Section 120.542(2), F.S. states that, "Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when the application of the rule would create a substantial hardship or would violate the principles of fairness."
14. Section 120.542(5), F.S. states that, "A person who is subject to regulation by an agency rule may file a petition with that agency, with a copy to the committee, requesting a variance or waiver from the agency's rule."
15. Denying a limited proceeding for a rate restructuring would require FCWS to file for a full rate case. This would involve the compilation and filing of ten separate sets of Minimum Filing Requirements.
16. This revenue neutral rate restructuring represents a significant reduction in rates to approximately 1,300 customers. If FCWS were required to obtain outside legal counsel

or file ten sets of MFRs, this reduction in rates would be diminished due to the additional costs involved.

17. This would create a substantial hardship and additional cost for both the utility and the customers, as well as violate the principles of fairness as defined in Section 120.542(2), F.S.
18. Prior to the most recent amendment to Rule 25-30.455, section (6)(b) previously read, “In evaluating whether the utility’s request is improper for a limited proceeding, the Commission will consider factors such as: Whether the utility has not had a rate case in more than seven years **and** the requested rate increase exceeds 30 percent.” (emphasis added) Again, FCWS is not requesting an increase in revenues.

WHEREAS, Section 120.542(2), F.S., authorizes the Commission to grant variances or waivers from agency rules where the petitioner subject to the rule has demonstrated that the purpose of the underlying statute will be or has been achieved by other means, and that a strict application of the rule would cause the applicant substantial hardship or would violate the principles of fairness. “Substantial hardship” as defined in this section means demonstrated economic, technological, legal, or other hardship. A violation of the “principles of fairness” occurs when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

WHEREFORE, FLORIDA COMMUNITY WATER SYSTEMS, INC. requests this Commission grant a partial waiver or variance of the provisions of Section 25-30.445(6), F.A.C.

Respectfully Submitted,



Troy Rendell
Vice President
Investor Owned Utilities
// for Florida Community Water Systems, Inc.