



PHONE (850) 425-6654 FAX (850) 425-6694 WEB WWW.RADEYLAW.COM  
MAIL POST OFFICE BOX 10967 | TALLAHASSEE, FL 32302 OFFICE 301 SOUTH BRONOUGH ST. | STE. 200 | TALLAHASSEE, FL 32301

*e-Mail: tcrabb@radeylaw.com*

November 30, 2023

VIA Electronic Filing

Florida Public Service Commission  
Office of Commission Clerk  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

RE: Docket No.: 20230123-WS; *In Re: Proposed Rule 25-30.0372, Florida Administrative Code, Alternative Procedure For Establishing Rate Base Value Of Acquired Utility System*

Dear Commission Clerk,

CSWR-Florida Utility Operating Company, LLC (“CSWR-Florida”) appreciates the opportunity to have attended the November 14, 2023 rulemaking workshop and Staff’s efforts in developing this proposed rule. CSWR-Florida provides the following post-workshop comments to the draft rule circulated with the Notice Of Development Of Rulemaking on October 31, 2023.

25-30.0372(2)(b) Selection of Appraisers

The draft rule requires the acquiring utility and utility being acquired to each select one appraiser, and jointly select the third. The reason for this requirement is not apparent. Section 367.0811(4)(a) requires only that the three appraisers be chosen from the Commission’s approved list. The same paragraph of the statute requires the buyer to pay for all the appraisals. The buyer would be required to pay for the appraiser selected solely by the seller and it is unclear how it would be resolved if the buyer and seller could not agree on the third appraiser, or the value of this process. We would request that this selection process requirement be deleted.

### (3)(a) Engineering Assessment

The draft rule requires the initial engineering assessment to assess “the impact on quality of service” and include “impacts to the quality of product.” The impact of what is not identified. Section 367.0811(4)(b) requires “an assessment of the tangible assets of the utility system being acquired.” The purpose of the engineering assessment is to assess the system and precedes the appraisals and ultimately the acquiring utility deciding whether to petition for an alternative valuation.

If the acquiring utility files such a petition, then pursuant to section 367.0811(5)(c), the petition must include a copy of the engineering assessment and pursuant to section 367.0811(5)(d), the petition must include the utility’s 3-year plan to address each deficiency identified by the assessment, including impacts of the plan on quality of service and planned improvements to water quality. The statute recognizes these as separate documents.

The rule draft seems to require the initial engineering assessment to include the utility’s 3-year improvement plan and the engineer’s opinion on the impacts of that plan on quality of service. As the statute recognizes, these are different documents, and are likely developed at different stages of the process. The 3-year improvement plan may or may not be developed with the involvement of the same engineer and may not be developed at all if the acquiring utility does not proceed with a petition. We would request that (3)(a) of the draft rule be deleted.

### (3)(b) Limiting Engineer Roles

The draft rule prohibits the licensed engineer who performs the engineering assessment required by section 367.0811(4)(b) from also serving as one of the three appraisers. The reason for this prohibition is not clear as there is no apparent conflict of interest in these roles. It would require the retention of an excessive fourth engineer. Moreover, the engineer who performs the engineering assessment of the system would likely be in the best position to then appraise it because of their acquired personal knowledge of the system. We would request that this prohibition be deleted.

### (4)(a) Petition Timing

The rule should provide, or clarify, that a petition may also be filed at the time the transfer application is filed as there may be instances where the materials



required to be filed with the petition are available at the time of the transfer application.

The date the petition is complete under section 367.0811(6), should be the date the last document required by section 367.0811(5) is filed by the utility. Providing for an additional undefined period for Staff notification would seem to be beyond the language of section 367.0811(6)(a) which ties the 8 month final order period to the date “the complete petition is filed.”

In addition, the petition filing deadline should be extended upon good cause shown by the acquiring utility. There could be circumstances outside the acquiring utility’s control that cause a delay, such as in obtaining the required engineering assessment and appraisals.

#### (4)(b) CPVRR Worksheet

The rule should make the use of the CPVRR worksheet optional and provide an alternative for the utility to provide their own analysis detailing the 5-year projected rate impact, in which case all data and assumptions used in the analysis, including the spreadsheet with formulas intact, must be provided by the acquiring utility.

#### (4)(c) 5-year Rate Impact

The rule draft requires the 5-year rate impact required by section 367.0811(5)(e) to be further broken down by projected impacts to the base facility charge, gallonage charge and billing determinants. As projecting a 5-year impact to this level of detail may not be feasible in all cases and is not required by section 367.0811(5)(e), we would request this be revised to require the overall customer bill impacts in all cases and the impacts to the specific billing components when they can be reasonably calculated. We would suggest the following language:

(c) The 5-year rate impact required by Section 367.0811(5)(e), F.S., shall represent, at a minimum, the overall average bill impacts to be expected as a result of this application. If more detailed impacts can be reasonably calculated, the utility may also include projections for the following:

1. Base facility charge,
2. Gallonage charge, and



### 3. Billing determinants.

#### (4)(c) Rate Stabilization Plan

Section 367.0811(5)(h) requires the filing of a rate stabilization plan “if the acquisition would result in a significant individual increase in rates” during the five years following the acquisition. The draft rule defines any increase in rates in excess of the Commission’s price index during any twelve month period over the course of the 5-year projected rate impact period as a “significant individual increase in rates.” This may not take into account that the selling utility’s last full rate case may have been many years prior, or the overall affordability of the 5-year projected rate impacts.

As an alternative to the pure price index comparison, we would suggest evaluating the 5-year projected rate impact against the selling utility’s current rates multiplied by an inflation factor since the selling utility’s last full rate case. An increase above that during any twelve month period over the course of the 5-year projected rate impact period would be viewed as a “significant individual increase in rates.” Another alternative would be to use an affordability index, such as considering a rate increase causing annual water and wastewater service expenditures to be in excess of 4.5% of annual average household income in the service area to be a “significant individual increase in rates.”

Thank you again to Staff for your work in developing this rule and the opportunity to submit these post-workshop comments for your consideration.

Sincerely,

*/s/ Thomas A. Crabb*

Thomas A. Crabb  
Attorney for CSWR-Florida

1        **25-30.0372 Alternative Procedure for Establishing Rate Base Value of Acquired**  
2        **Utility System.**

3        (1) Definitions. For the purposes of this rule, the following definitions apply:

4        (a) “Licensed Appraiser,” as referenced in Section 367.0811(4)(a), F.S., means a person  
5        who meets all the following criteria:

6        1. Has certification as an Accredited Senior Appraiser by the American Society of  
7        Appraisers, designation as a Certified Valuation Analyst by the National Association of  
8        Certified Valuators and Analysts, or designation as a Member of the Appraisal Institute by the  
9        Appraisal Institute; and

10       2. Has a current license in good standing from any state as an appraiser, engineer, or  
11       certified public accountant.

12       ~~(b) “Price Index” means the most recent annual price increase or decrease index of major~~  
13       ~~categories of operating costs incurred by water and wastewater utilities established by the~~  
14       ~~Commission by order entered pursuant to Section 367.081(4)(a), F.S.~~

15       (2) Appraisals.

16       (a) Each appraisal must assess the value of the utility system being acquired according to  
17       its intended use.

18       ~~(b) The acquiring utility will select one licensed appraiser, the utility being acquired will~~  
19       ~~select one licensed appraiser, and those two utilities will jointly select the third licensed~~  
20       ~~appraiser.~~

21       (c) The list of licensed appraisers required by Section 367.0811(4)(a), F.S., can be found at  
22       [www.floridapsc.com/appraiserlist](http://www.floridapsc.com/appraiserlist) or obtained from the Office of the Commission Clerk,  
23       Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida  
24       32399-0850.

25       (d) A licensed appraiser will be included on the Commission’s list of approved licensed

1 appraisers by submitting all of the following to [appraiserlist@psc.state.fl.us](mailto:appraiserlist@psc.state.fl.us) or the Office of the  
2 Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard,  
3 Tallahassee, FL 32399-0850:

- 4 1. The licensed appraiser's name, mailing address, telephone number, and email address;  
5 2. The name of any company with which the licensed appraiser is employed or associated;

6 and

- 7 3. Proof of the information required by paragraph (1)(a) above.

8 (e) It is the responsibility of the licensed appraiser to ensure that correct and updated  
9 information remains on file with the Commission. The licensed appraiser must submit updated  
10 information to [appraiserlist@psc.state.fl.us](mailto:appraiserlist@psc.state.fl.us) within 30 days of any change of information. If the  
11 Commission determines that a person no longer meets the requirements to be a licensed  
12 appraiser on the Commission's list, that person will be removed from the list. Upon request  
13 and upon providing proof that the requirements listed in paragraph (1)(a) above are met, a  
14 person will be added back to the list.

15 (f) The licensed appraiser can be removed from the list by submitting a request for  
16 removal in writing to [appraiserlist@psc.state.fl.us](mailto:appraiserlist@psc.state.fl.us).

17 ~~(3) Engineering Assessment.~~

18 ~~(a) In assessing the impact on quality of service, the assessment of the tangible assets of~~  
19 ~~the utility system being acquired required by Section 367.0811(4)(b), F.S., must include~~  
20 ~~impacts to the quality of product.~~

21 ~~(b) The licensed engineer who performs the engineering assessment required by Section~~  
22 ~~367.0811(4)(b), F.S., may not also serve as a licensed appraiser on the same acquisition~~  
23 ~~transaction.~~

24 (4) Petition. Section 367.0811(5), F.S., sets forth the filing requirements a petition to  
25 establish the rate base value must contain.

1       (a) The petition may be filed as early as with the transfer application and must be filed no  
2 later than~~within~~ 6 months of the issuance of the final order approving the transfer of the  
3 certificate(s) of authorization or the closing date of the sale, whichever is later. This deadline  
4 may be extended upon good cause shown. Commission staff will review the petition and  
5 within 30 days of receipt of the petition will notify the acquiring utility whether the petition is  
6 complete or identify the information missing from the petition under the requirements of  
7 Section 367.0811(5), F.S. The date the petition is complete under Section 367.0811(6), F.S., is  
8 the date ~~that Commission staff notifies the acquiring utility that all documents required~~~~the~~  
9 ~~petition meets the filing requirements of~~ by Section 367.0811(5), F.S. have been filed.

10       (b) Form PSC XXX (XX/23), entitled “Water and/or Wastewater Cumulative Present  
11 Value of the Revenue Requirement for Alternate Rate Base Worksheet” (“CPVRR”), which is  
12 incorporated by reference in this rule and may be obtained from [hyperlink], ~~must~~may be  
13 included in the petition to show the 5-year projected rate impact required by Section  
14 367.0811(5)(e), F.S. The form can also be found at [www.floridapsc.com](http://www.floridapsc.com), or obtained from the  
15 Office of the Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak  
16 Boulevard, Tallahassee, Florida 32399-0850. Alternatively, a utility may elect to include its  
17 own analysis detailing the 5-year projected rate impact in a fashion similar to the CPVRR, in  
18 which case all data and assumptions utilized in such analysis, including the spreadsheet with  
19 formulas intact, must be provided.

20       (c) The 5-year rate impact required by Section 367.0811(5)(e), F.S., shall represent, at a  
21 minimum, the overall average bill impacts to be expected as a result of this application. If  
22 more detailed impacts can reasonably be calculated, the utility may also include projections  
23 for the following:~~must also include the following for each year for residential and general~~  
24 ~~service customers, and the CPVRR must support the projections for these charges:~~

25       1. Base facility charge,

1        2. Gallonage charge, and

2        3. Billing determinants.

3        (d) The information filed under Section 367.0811(5)(e), F.S., must include the acquiring  
4 utility's proposed journal entries anticipated to result from the acquisition, including tax  
5 entries and account numbers in conformance with the 1996 NARUC Uniform System of  
6 Accounts, which is incorporated by reference in Rule 25-30.115, F.A.C.

7        (e) For purposes of determining whether the petition must include a rate stabilization plan  
8 under Section 367.0811(5)(h), F.S., "significant individual increase in rates" means a rate  
9 increase during any twelve consecutive months of the 5-year projected rate impact period in  
10 excess of the rate calculated by multiplying the rate derived in the utility being acquired's  
11 most recent base rate case by an inflationary factor equivalent to the number of years since  
12 that base rate case; or a rate increase that would cause annual water and wastewater service  
13 expenditures to be in excess of 4.5% of annual average household income in the service area.  
14 price index over the current rates of the utility system being acquired. A copy of the most  
15 recent Commission order establishing the price index can be obtained from the Public Service  
16 Commission, Division of Accounting & Finance, 2540 Shumard Oak Boulevard, Tallahassee,  
17 Florida 32399-0850.

18 Rulemaking Authority 367.0811(11), FS. Law Implemented 367.0811, FS., History–New

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NOTICE OF DEVELOPMENT OF RULEMAKING  
 DOCKET NO. 20230123-WS  
 PAGE 5

WATER AND/OR WASTEWATER CUMULATIVE PRESENT VALUE OF THE REVENUE REQUIREMENTS  
 FOR ALTERNATE RATE BASE WORKSHEET

| Discount Rate / WACC                       |                 | 0.00%          |         | Acquired Utility |         |         |         |               |              |  |
|--|-----------------|----------------|---------|------------------|---------|---------|---------|---------------|--------------|--|
| Start Date                                 |                 |                |         |                  |         |         |         |               |              |  |
| Acquisition Date                           |                 |                |         |                  |         |         |         |               |              |  |
|  | Escalation Rate | Beginning Cost | Year 1  | Year 2           | Year 3  | Year 4  | Year 5  | Nominal Total | 5-year CPVPR |  |
| Discount Rate                              |                 |                | 1.00000 | 1.00000          | 1.00000 | 1.00000 | 1.00000 |               |              |  |
| <b>Revenue Requirements</b>                |                 |                |         |                  |         |         |         |               |              |  |
| Operations and Maintenance <sup>1</sup>    | 0.00%           | \$0            | \$0     | \$0              | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| Depreciation and Amortization <sup>2</sup> | 0.00%           | \$0            | \$0     | \$0              | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| Taxes Other Than Income                    | 0.00%           | \$0            | \$0     | \$0              | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| Interest Expense <sup>3</sup>              | 0.00%           | \$0            | \$0     | \$0              | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| Return on Equity <sup>4</sup>              | 0.00%           | \$0            | \$0     | \$0              | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| Income Tax <sup>5</sup>                    | 0.00%           | \$0            | \$0     | \$0              | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| System Impact <sup>6</sup>                 | 0.00%           | \$0            | \$0     | \$0              | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| <b>Total Revenue Requirements</b>          |                 | \$0            | \$0     | \$0              | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| (Revenue from Customers) <sup>7</sup>      |                 | \$0            | \$0     | \$0              | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| <b>Net Customer (Savings)/Cost*</b>        |                 | \$0            | \$0     | \$0              | \$0     | \$0     | \$0     | \$0           | \$0          |  |

| Cost Adjustments - Acquired Utility |        |        |        |        |     |
|-------------------------------------|--------|--------|--------|--------|-----|
| Year 1                              | Year 2 | Year 3 | Year 4 | Year 5 |     |
| \$0                                 | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                 | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                 | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                 | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                 | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                 | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                 | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                 | \$0    | \$0    | \$0    | \$0    | \$0 |

| Discount Rate / WACC                       |                 | 0.00%          |         | Acquiring Utility |         |         |         |               |              |  |
|--|-----------------|----------------|---------|-------------------|---------|---------|---------|---------------|--------------|--|
| Start Date                                 |                 |                |         |                   |         |         |         |               |              |  |
| Acquisition Date                           |                 |                |         |                   |         |         |         |               |              |  |
|  | Escalation Rate | Beginning Cost | Year 1  | Year 2            | Year 3  | Year 4  | Year 5  | Nominal Total | 5-year CPVPR |  |
| Discount Rate                              |                 |                | 1.00000 | 1.00000           | 1.00000 | 1.00000 | 1.00000 |               |              |  |
| <b>Revenue Requirements</b>                |                 |                |         |                   |         |         |         |               |              |  |
| Operations and Maintenance <sup>1</sup>    | 0.00%           | \$0            | \$0     | \$0               | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| Depreciation and Amortization <sup>2</sup> | 0.00%           | \$0            | \$0     | \$0               | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| Taxes Other Than Income                    | 0.00%           | \$0            | \$0     | \$0               | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| Interest Expense <sup>3</sup>              | 0.00%           | \$0            | \$0     | \$0               | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| Return on Equity <sup>4</sup>              | 0.00%           | \$0            | \$0     | \$0               | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| Income Tax <sup>5</sup>                    | 0.00%           | \$0            | \$0     | \$0               | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| System Impact <sup>6</sup>                 | 0.00%           | \$0            | \$0     | \$0               | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| Acquisition Cost <sup>7</sup>              | 0.00%           | \$0            | \$0     | \$0               | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| <b>Total Revenue Requirements</b>          |                 | \$0            | \$0     | \$0               | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| (Revenue from Customers) <sup>8</sup>      |                 | \$0            | \$0     | \$0               | \$0     | \$0     | \$0     | \$0           | \$0          |  |
| <b>Net Customer (Savings)/Cost*</b>        |                 | \$0            | \$0     | \$0               | \$0     | \$0     | \$0     | \$0           | \$0          |  |

| Cost Adjustments - Acquiring Utility |        |        |        |        |     |
|--------------------------------------|--------|--------|--------|--------|-----|
| Year 1                               | Year 2 | Year 3 | Year 4 | Year 5 |     |
| \$0                                  | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                  | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                  | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                  | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                  | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                  | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                  | \$0    | \$0    | \$0    | \$0    | \$0 |
| \$0                                  | \$0    | \$0    | \$0    | \$0    | \$0 |

| Combined Net Customer (Savings)/Cost |  | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Nominal Total | 5-year CPVPR |
|--------------------------------------|--|--------|--------|--------|--------|--------|---------------|--------------|
|                                      |  | \$0    | \$0    | \$0    | \$0    | \$0    | \$0           | \$0          |

<sup>1</sup>Represents estimated Operations and Maintenance Expense for operating the system.  
<sup>2</sup>Depreciation and Amortization Expense associated with the assets and system capital expenditures.  
<sup>3</sup>Interest expense assumes weighted cost of debt and debt-to-investor capital ratio excluding any interest expense (if applicable) related to the acquisition.  
<sup>4</sup>Return on equity assumes cost of equity and equity-to-investor capital ratio excluding any return (if applicable) related to the acquisition.  
<sup>5</sup>Income tax assumes blended state and federal tax rate.  
<sup>6</sup>Fixed costs and capital needed to serve the system.  
<sup>7</sup>Capital costs related to the acquisition.  
<sup>8</sup>Revenue from customers at forecasted rates.  
 \*Revenue requirements netted against revenue from customers.