

## Notice of Proposed Rule

### PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

[25-30.0372](#): Alternative Procedure for Establishing Rate Base Value of Acquired Utility System

PURPOSE AND EFFECT: Docket 20230123-WS

To implement newly enacted Section 367.0811, F.S., which was passed by the Florida Legislature in the 2023 session. Section 367.0811, F.S. creates an alternative procedure to establish the rate base value of an acquired water and/or wastewater utility system

SUMMARY: Rule 25-30.0372, F.A.C., is a new rule to implement Section 367.0811, F.S., which was adopted by the Florida legislature in 2023. The rule clarifies ambiguous terms in the statute and sets forth the procedures for handling the petition to establish the rate base value before the Commission. The rule also contains general filing instructions and notice requirements to provide due process and assist in the efficient implementation of the statute. The rule incorporates a new form (PSC 1035 03/24) to reflect information required by the statute regarding the 5-year projected rate impact

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 Section 120.541(2), FS, and concluded that the rule will not likely increase regulatory costs, including any transactional costs or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. The proposed rule would have no impact on small business, would have no implementation cost to the Commission or other state and local government entities, and would have no impact on small cities or counties. 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 upon the information contained in the SERC

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:

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: [367.0811\(11\)](#), F.S.

LAW IMPLEMENTED: [367.0811](#), F.S.

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: Susan Sapoznikoff, Office of General Counsel, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, (850) 413-6630, Susan.Sapoznikoff@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

#### **[25-30.0372 Alternative Procedure for Establishing Rate Base Value of Acquired Utility System.](#)**

(1) Definition. For the purposes of this rule, “Licensed Appraiser,” as referenced in Section 367.0811(4)(a), F.S., means a person who meets all the following criteria:

(a) Has certification as an Accredited Senior Appraiser by the American Society of Appraisers (ASA), designation as a Certified Valuation Analyst by the National Association of Certified Valuators and Analysts (NACVA), designation as a Certified Business Appraiser by the Institute of Business Appraisers (CBA), or designation as Accredited in Business Valuation by the American Institute of Certified Public Accountants (AICPA), and

(b) Is in good standing with the ASA, NACVA, IBA, or AICPA.

(2) Appraisals.

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

(b) The Executive Director of the Florida Public Service Commission or their designee will randomly choose the three licensed appraisers from the list of licensed appraisers referenced in paragraph (2)(d) of this rule using computationally-generated random numbers.

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

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

(e) A licensed appraiser will be included on the Commission's list of approved licensed appraisers by submitting all of the following to [appraiserlist@psc.state.fl.us](mailto:appraiserlist@psc.state.fl.us) or the Office of the Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850:

1. The licensed appraiser's name, mailing address, telephone number, and email address;
2. The name of any company with which the licensed appraiser is employed or associated; and
3. Proof of the information required by subsection (1) above.

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

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

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

(a) The petition may be filed concurrent with the application to transfer the certificate(s) of authorization, but must be filed no later than 6 months after the issuance of the final order approving the transfer of the certificate(s) of authorization or the closing date of the sale. Commission staff will review the petition and within 30 days of receipt of the petition will notify the acquiring utility whether the petition is complete or identify the information required by Section 367.0811(5), F.S., which is missing from the petition. If an amended petition is filed, Commission staff will review the amended petition and within 30 days of receipt of the amended petition will notify the acquiring utility whether the amended petition is complete or identify the information required by Section 367.0811(5), F.S., which is missing from the amended petition. This process will continue until Commission staff determines the petition satisfies the requirements of Section 367.0811(5), F.S. The date a petition is complete under Section 367.0811(6), F.S., is the date that all documents required by Section 367.0811(6), F.S. have been filed.

(b) If the assessment of tangible assets required by Section 367.0811(4)(b), F.S., identifies deficiencies, the 3-year plan required by Section 367.0811(5)(d), F.S., must include the following, if existing, regarding the system being acquired:

1. A copy of the most recent DEP and/or county health department sanitary survey, compliance inspection report, primary and secondary standards drinking water report; and
2. A copy of all correspondence with the DEP, county health department, and water management district, including consent orders and warning letters, and the utility's responses to the same, for the past five years.

(c) Form PSC 1035 (03/24), entitled “Water and/or Wastewater Cumulative Present Value of the Revenue Requirement for Alternate Rate Base Worksheet” (CPVRR), which is incorporated by reference in this rule and may be obtained from [hyperlink], must be included in the petition to show the 5-year projected rate impact required by Section 367.0811(5)(e), F.S. The form can also be found at [www.floridapsc.com](http://www.floridapsc.com), or obtained from the Office of the Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

(d) The 5-year rate impact required by Section 367.0811(5)(e), F.S., must also include the following for each year for residential and general service customers, and the CPVRR must support the projections for the following:

1. Base facility charge,
2. Gallonage charge, and
3. Billing determinants.

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

(f) For purposes of determining whether the petition must include a rate stabilization plan under Section 367.0811(5)(h), F.S., “significant individual increase in rates” means a rate increase during any twelve consecutive months of the 5-year projected rate impact period that is in excess of 15 percent over the current rates of the utility system being acquired.

(4) General filing instruction. Prepared direct testimony and exhibits for each witness testifying on behalf of the acquiring utility must be filed at the time the petition is filed.

(5) Notice. At the time the petition is filed with the Commission, the acquiring utility must provide a draft notice for review by Commission staff. Commission staff will review the draft notice within 7 days. Once staff has approved the notice, the acquiring utility must provide notice by regular mail to the Office of Public Counsel and by regular mail or personal service to each customer and owner of property located within the service area for both the acquiring utility and the utility being acquired, to the extent the utilities’ customers are within the Commission’s jurisdiction. The notice required by this rule may be combined with the notice of Application for Authority to Transfer issued pursuant to Rule 25-30.030, F.A.C., or for existing customers, the notice may be included in their next bill. The notice must contain:

(a) Title: Notice of Utility’s Petition to Establish Rate Base Value Using Alternative Procedure;

(b) A statement that the utility has filed a petition with the Commission to establish rate base value of acquired utility system using the alternative procedure set forth in Section 367.0811, F.S.;

(c) The date the petition was filed with the Commission;

(d) The docket number associated with the petition;

(e) A statement of the 5-year projected rate impact or the anticipated effect of the requested rate base on rates for the next five years;

(f) A statement that the utility’s petition is available on the Commission’s website;

(g) The acquiring utility’s address, telephone number, and business hours; and

(h) A statement that any customer substantially affected by the petition may file a motion to intervene in accordance with Rule 28-106.205, F.A.C.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Cicchetti

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 05, 2024

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 49, Number 211, Oct. 30, 2023

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<https://www.flrules.org/gateway/readFile.asp?sid=2&tid=28146604&type=1&file=25-30.0372.htm>



Florida Department of State

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### Notices Submitted to/Confirmed by Administrative Code & Register Staff

[Notices Confirmed by ACR](#)

#### Notices Submitted to ACR

ID	Rule No./ Organization	Rule Title	Section	Issue	Date
<a href="#">28146604</a>	25-30.0372	Alternative Procedure for Establishing Rate Base Value of Acquired Utility System	Proposed	3/13/2024 Vol. 50/51	3/12/2024

#### Notices Confirmed by ACR

ID	Rule No./ Organization	Rule Title	Section	Issue	Date
None					

[Back to Agency Home](#)