

File & Suspend Rate Cases



Basics of a File & Suspend Rate Case

A file and suspend rate case is a process required to be used by Class A and Class B water and wastewater utilities. Under this process, the utility petitions for approval to increase rates and files detailed financial and operating data to support its proposed rates. Within 60 days of the filing date, the Commission must take action to suspend the proposed rates, or the rates as proposed by the utility will become effective upon filing revised tariffs.



Basics of a File & Suspend Rate Case (cont.)

- When and who should file a rate case?
- How should a utility choose a test year?
- What has to be filed?
- What customer notices are required?
- What are the common pitfalls in a rate case?



When to File a Rate Case

- Timing is a utility management decision.
- Utility management should evaluate whether the utility is losing money or earning less than a fair rate of return.
- Utility management should evaluate other processes available to increase rates, such as limited proceeding, or price index or pass through rate adjustments to determine if these alternatives will provide sufficient revenue recovery.



Who Files a Rate Case

- Generally, Class A and B utilities use the file and suspend rate case proceeding.
- Class C utilities can use this procedure but it is expensive.

Note: *Class A* (utilities that have annual water or wastewater operating revenues of \$1,000,000 or more); *Class B* (utilities that have annual water or wastewater revenues of \$200,000 or more but less than \$1,000,000); and *Class C* (utilities that have annual water or wastewater revenues less than \$200,000).



What Factors Drive the Need For a Rate Case

Factors that drive the need for a rate case include major plant expansions, major changes in operations, and government mandated projects.



Test Year Approval

Pursuant to Rule 25-30.430, F.A.C., *Test Year Approval*, a test year can be historic or projected but it should be representative of future operations.



Test Year Approval – Historic Test Year

A historic test year is applicable when a utility has the following:

- Relatively low growth in customers
- Few changes in operations or major expenses
- Pro forma adjustments can be applied easily



Test Year Approval – Projected Test Year with Historic Base Year

A projected test year is applicable when a utility has moderate to high customer growth, material operational changes that will occur outside of the historical base year, and major plant expansion for growth and/or non-growth.



Test Year Approval - Letter of Request to Chairman

In its Letter of Request to the Chairman, the utility must:

- Specify final and interim test year (if applicable), including requested base and intermediate years.
- Explain why the test year is representative.
- Identify any major operational changes.
- State whether Proposed Agency Action (PAA) process is being requested.



Test Year Approval - Letter of Approval From Chairman

The Letter of Test Year Approval states the following:

- Docket number
- Final and interim test year
- Minimum Filing Requirements (MFRs) due date
- Any information not submitted with application may not be considered by the Commission.
- Approval of the test year for filing purposes does not mean that an issue regarding the appropriateness of the test period could not be raised at any time during the proceeding.



Petition and Minimum Filing Requirements

- A Class A utility must complete Form PSC/ECR 19-W (11/93), titled “Class A Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing Requirements”.
- A Class B utility must complete Form PSC/ECR 20-W (11/93), titled “Class B Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing Requirements”.
- Once submitted, staff reviews the MFRs to ensure that they are complete and comply with MFR Rules.
- If complete, the date that the application was filed becomes the official filing date for a PAA rate case.



MFR Deficiencies

MFR deficiencies arise when a utility fails to include all required information as specified on each page of the minimum filing requirements or fails to comply with the following Commission rules:

- 25-30.436, F.A.C. - *General Information and Instructions Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase*
- 25-30.437, F.A.C. – *Financial, Rate and engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase*
- 25-20,438, F.A.C. – *Information Require in Application for Rate Increase From Utilities with Related Parties*
- 25-30.4385, F.A.C. – *Additional Rate Information Required in Application for Rate Increase*



MFR Deficiencies (cont.)

MFR deficiencies arise when a utility fails to include all required information as specified on each page of the minimum filing requirements or fails to comply with the following Commission rules (cont.):

- 25-30.440, F.A.C. – *Additional Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase*
- 25-30.4415 F.A.C. – *Additional Information Required in Application for Rate Increase by Utilities Seeking to Recover the Cost of Investment in the Public Interest (if applicable)*



MFR Deficiencies (cont.)

- If the utility's MFRs are incomplete, staff sends out a deficiency letter identifying the deficiencies that must be cured.
- When staff has verified that all MFRs have been met, then the official date of filing is established as of the date that the completed information was submitted by the utility.



Noticing Requirements

Rule 25-22.0407, F.A.C., *Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities*, sets forth the noticing requirements for General Rate Increase Requests by Water and Wastewater Utilities.



Notice at Time of Filing

A copy of the minimum filing requirements (MFRs) and rate case synopsis must be sent to the CEO of the cities and counties in the service area.



Other Required Notices

- An initial customer notice is due no later than 50 days from the Official Filing Date in a Proposed Agency Action (PAA) case and the Filing Date in a Formal Hearing Case.
- A customer meeting or service hearing notice is due no sooner than 14 days and no later than 30 days prior to the date established for the meeting or service hearing.
- If applicable, an interim rate increase notice is required before interim rates can be effective.
- A PAA or formal rate increase notice is required before rates can be effective.



Section 367.082, F.S., Interim Rates; Procedure

- The Commission shall approve interim rates within 60 days of filing the petition, not the official date MFRs are completed, once prima facie entitlement is demonstrated. Prima facie entitlement is when a utility makes a showing of interim increase within the four corners of its filing.
- Interim adjustments should be consistent with the utility's last rate proceeding.
- No projected test year or pro forma adjustments are allowed.
- The minimum of the last authorized return on equity should be used.
- Utility must annualize only revenue changes during test the year.



Proposed Agency Action Process

- Proposed agency action (PAA) is a process in which a utility's request for a rate increase is voted on by the Commission and an order issued without holding a formal hearing.
- The utility must request the PAA process to be used at the time the utility requests the Commission approve its test period for its proposed rate case.
- The Commission's PAA order will become a final order if a protest to the order is not filed.
- A customer meeting is held prior to the Commission's vote on the utility's rate increase request.



Proposed Agency Action (PAA) Process (cont.)

What does the Commission do?

- Audit
- Staff Analyses
- Customer Meeting
- Staff PAA Recommendation
- Commission Conference



Audit

- Staff performs an audit of the utility's books and records.
- After staff issues an Audit Service Request (ASR), the audit of books and records is completed in 60 days from the issuance of the ASR.
- The utility is requested to provide a response to any findings in the audit report issued by staff.



Staff Analyses

The purpose of staff analyses is to verify the accuracy of the data included in the utility's MFRs. Staff analyses include the following:

- An engineering evaluation regarding used and useful analysis, quality of service and utility operations
- Accounting, rate and billing issues developed through the review of MFRs and utility responses to staff data requests
- Comparison of the prior test year to the current adjusted test year to identify potential anomalies



Staff Analyses (cont.)

The purpose of staff analyses is to verify the accuracy of the data included in the utility's MFRs. Staff analyses include the following (cont.):

- Benchmarking customer growth, inflation, and operation and maintenance (O&M) expenses to justify any expense increase and evaluate reasonableness
 - Although staff utilizes benchmarking for analysis, it does not automatically recommend disallowance for amounts above the benchmark or prudence for amounts below the benchmark.



Staff Analyses (cont.)

The purpose of staff analyses is to verify the accuracy of the data included in the utility's MFRs. Staff analyses include the following (cont.):

- Reviewing all related party transactions and charges to determine if costs are equal to or below market value
 - Staff exercises greater scrutiny in examining related party transactions because of the influence that could be exerted.
 - Section 367.156(1), F.S., Public utility records; confidentiality, and Rule 25-30.436(4)(h), F.A.C., General Information and Instructions Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase are both applicable.



Customer Meeting

- The purpose of a customer meeting is to answer customer questions and receive customer comments regarding:
 - The quality of service provided by utility.
 - The utility's interaction with its customers.
 - The proposed rate increase.
- The utility and the Office of Public Counsel (OPC), the ratepayer's advocate, may attend.
- This meeting is held in the service area or as close as possible.



PAA Recommendation

- Staff's recommendation is a culmination of information from the utility's filing, the staff audit report, the utility's responses to the audit report and data requests, and the engineering evaluation.
- It contains a revenue requirement that staff recommends will afford the utility an opportunity to earn a fair rate of return on its investment and recover prudent and reasonable expenses.



PAA Commission Conference

- The utility, customers, and OPC may speak at the Commission Conference.
- The Commission will either approve, deny or modify staff's recommendation.



After Commission Conference

- A PAA Order, that memorializes the Commission's decision, is issued 20 days after its Conference.
- After a PAA Order is issued, a 21-day protest period commences where a substantially affected party can request a hearing.
- If a party other than the utility protests, the utility's final requested rates may be implemented, subject to refund.
- If no timely protest is filed, the PAA rates can become effective on the stamped approval date of the tariffs, provided adequate customer notice.



Protest

If a protest is filed:

- It must be completed in 8 months.
- A hearing in the service territory must be conducted.
- Customers can testify.
- Parties and staff will litigate issues.



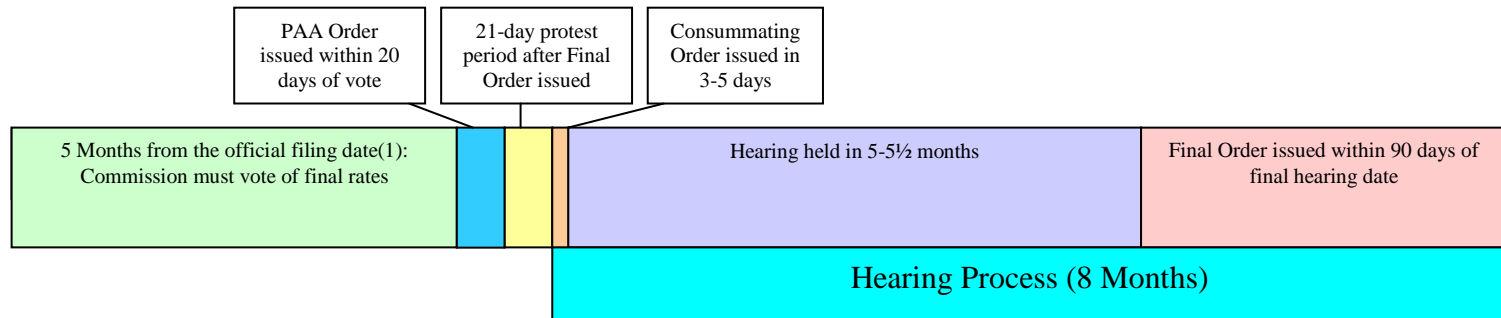
Hearing

Each party is responsible for:

- Filing witness testimony.
- Conducting discovery (including depositions).
- Preparing cross-examination.
- Attending the prehearing conference in Tallahassee.



PAA and Hearing Timeline



- (1) Official Filing Date occurs when all minimum filing requirements have been met.
(2) The hearing process will commence if there is a protest filed within the 21-day protest period.