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Public Service Commission

April 12, 2013

RECEIVED-FPSC
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COMMISSION
CLERK

Patricia Nelson
Deputy Director, Office of Fiscal Accountability and Regulatory Reform
at the Executive Office of the Governor
400 South Monroe Street, The Capitol,
Room 1702, 17th Floor
Tallahassee, FL 32399

RE: Docket No. 120246-WS - Rules 25.30.335, Customer Billing, 25-30.350, Backbilling,
and 25-30.351, Unauthorized Use, F.A.C.

Dear Ms. Nelson,

The Commission has determined that the above rules will minimally affect small businesses. Accordingly, pursuant to Section 120.54(3)(b), Florida Statutes, enclosed is a copy of the Florida Administrative Register (FAR) notice of the proposed rules, which was published in the April 11, 2013 edition of the FAR, and the corrected notice which was published in the April 12, 2013 edition of the FAR. Also enclosed is a copy of the statement of estimated regulatory costs (SERC). The SERC concluded that the proposed rule amendments will not have an adverse affect on small business.

If there are any questions with respect to these rules, please contact me at (850) 413-6082 or cmiller@psc.state.fl.us.

Sincerely,

Handwritten signature of Cindy Miller in cursive.

Cindy Miller
Senior Attorney

Enclosures

cc: Office of the Commission Clerk

FPSC-COMMISSION CLERK
01896 APR 12 2013
DOCUMENT NUMBER DATE

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NOS.:RULE TITLES:

25-30.335 Customer Billing

25-30.350 Backbilling

25-30.351 Unauthorized Use

PURPOSE AND EFFECT: The purpose of amendments to Rule 25-30.335, F.A.C., is to provide customers with contact information and explanations when their bills are estimated, and to discourage use of estimated bills. The purpose of amendments to Rule 25-30.350, F.A.C., is to clarify the process for water and wastewater companies to follow when there are overbillings or underbillings. The purpose of new Rule 25-30.351, F.A.C., is to clarify the process for situations when a customer has fraudulent or unlawful use of the services.

Docket No. 120246-WS

SUMMARY: Rule 25-30.335, F.A.C., requires bill statements to prominently show the word "Estimated" on the bill. The utility is obligated to timely correct problems within the utility's control causing the need to estimate bills. The utility must provide the customer with contact information in certain circumstances. The utility must maintain records, for a minimum of two years, detailing the number, frequency and causes of estimated bills. Rule 25-30.350, F.A.C., is renamed to Underbilling and Overbilling. A new process is set out for both underbillings and overbillings. Rule 25-30.351, F.A.C., describes a process for billing for unauthorized use.

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, F.S., and concluded that the rule amendments will not have an adverse impact on economic growth, business competitiveness, or small business. Each rule is expected to have minimal impact on the Commission's costs of rule implementation and enforcement. No other state or local government entities' costs are impacted by the rule. The rules should have minimal or no impact on small business. 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.

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: 350.127(2), 367.121 FS.

LAW IMPLEMENTED: 367.091, 367.121 FS.

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: Cindy Miller, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6082, cmiller@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.335 Customer Billing.

(1) Except as provided in this rule, a utility shall render bills to customers at regular intervals, and each bill shall indicate: the billing period covered; the applicable rate schedule; beginning and ending meter reading; the amount of the bill; the delinquent date or the date after which the bill becomes past due; and any authorized late payment charge.

(2) When a utility is unable to obtain an actual meter read, estimated bills may be provided.

(a) If the utility estimates a bill, the bill statement shall prominently show the word "Estimated" on the face of the bill. ~~If the utility estimates the bill, the utility shall indicate on the bill that the amount owed is an estimated amount.~~

(b) The utility is obligated to timely correct any problems within the utility's control causing the need to estimate bills. In no event shall a utility provide an estimated bill to any one customer more than four times in any 12-month period due to circumstances that are within the utility's control and service obligations.

(c) Upon issuance of a second estimated bill in a 6 month period, the utility shall provide the customer with an explicit written explanation for the estimation, along with the utility contact information and the Commission toll-free complaint number, 1(800)342-3552.

(d) The utility shall maintain records, for a minimum of two years, detailing the number, frequency, and causes of estimated bills, which shall be made available upon request to the Commission or to any party to a rate proceeding for the utility.

(3) through (7) No change.

~~(8) In the event of unauthorized use of service by a customer, a utility may bill the customer on a reasonable estimate of the service taken. In addition, the utility may assess a fee to defray the cost of restoring service to such a customer provided that the fee is specified in the utility's tariff.~~

(9) If a utility utilizes the base facility and usage charge rate structure and does not have a Commission authorized vacation rate, the utility shall bill the customer the base facility charge regardless of whether there is any usage.

Rulemaking Specific Authority 350.127(2), 367.121 FS. Law Implemented 367.091, 367.121 FS. History—Amended 9-14-74, 6-21-79, Formerly 25-10.97, 25-10.097, Amended 11-10-86, 11-30-93, _____.

25-30.350 Underbillings and Overbillings for Water and Wastewater Service Backbilling.

(1) A utility may not backbill customers for any period greater than 12 months for any undercharge in billing which is the result of the utility's mistake.

(a) The utility shall allow the customer to pay for the unbilled service over the same time period as the time period during which the under billing occurred or some other mutually agreeable time period. The utility shall not recover in a ratemaking proceeding, any lost revenues which inure to the utility's detriment on account of this provision.

(b) The revised bill shall be calculated on a monthly basis, assuming uniform consumption during the month(s) subject to underbilling, based on the individual customer's average usage for the time period covered by the underbilling. The monthly bills shall be recalculated by applying the tariff rates in effect for that time period. The

customer shall be responsible for the difference between the amount originally billed and the recalculated bill. All calculations used to arrive at the rebilled amount shall be made available to the customer upon the customer's request.

(2) In the event of an overbilling, the utility shall refund the overcharge to the customer, based on available records. If the commencement date of the overbilling cannot be determined, then an estimate of the overbilling shall be made based on the customer's past consumption.

(3) In the event of an overbilling, the customer may elect to receive the refund as a one-time disbursement, if the refund is in excess of \$20, or as a credit to future billings.

Rulemaking Specific Authority 350.127(2), 367.121 FS. Law Implemented 367.091, 367.121 FS. History-New 11-10-8, Amended _____.

25-30.351 Unauthorized Use.

In the event of unauthorized or fraudulent use of service or meter tampering, the utility shall bill the customer on an estimate of the water and/or wastewater services used based on the customer's past consumption.

Rulemaking Authority 350.127, 367.121 FS. Law Implemented 367.091, 367.121 FS. History-New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Patti Daniel

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 9, 2013

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Vol. 39, No. 28, February 11, 2013

Notice of Change/Withdrawal

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-30.350 Backbilling

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 39, No. 71, April 11, 2013 issue of the Florida Administrative Register.

Docket No. 120246-WS

The Public Service Commission has made typographical corrections to Subsection (2) for Rule 25-30.350 to read:

(2) In the event of an overbilling, the utility shall refund the overcharge to the customer based on available records. If the commencement date of the overbilling cannot be determined, then an estimate of the overbilling shall be made based on the customer's past consumption.

State of Florida



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: March 26, 2012
TO: Cindy B. Miller, Senior Attorney, Office of the General Counsel
FROM: William B. McNulty, Economic Analyst, Division of Economic Regulation *WBM*
RE: Docket No. 120246-WS – Statement of Estimated Regulatory Costs (2nd Revised)
for Draft Amendments to Rules 25-30.335 and 25-30.350, F.A.C., and Draft Rule
25-30.351, F.A.C.

Summary of Rules

Rule 25-30.335, F.A.C., Customer Billing, identifies the information that must appear on the customer bills of all water and/or wastewater utilities, establishes certain other terms and conditions related to customer billings, and requires utilities to maintain records of customer accounts for a minimum period. Rule 25-30.350, F.A.C., Backbilling, limits the amount of time a water and/or wastewater utility may backbill customers for any undercharge in billing which is the result of the utility's mistake to a period no greater than 12 months.

The draft amendment to Rule 25-30.335, F.A.C., addresses estimated bills. Under the draft amendment, utilities are obligated to prominently display the word "estimated" on the face of each estimated bill, timely correct problems within the utility's control causing the need to estimate bills, and limit to four the number of estimated bills per 12 month period for any single customer which is a result of problems within the utility's control. In addition, upon the issuance of a second estimated bill within a six month period, the utility must provide a written explanation of the reasons for the bill estimations to the customer. Also, the utility is required by the draft amendment to maintain records of estimated bills (i.e. number, frequency, and causes) for a minimum period of two years, available upon request to the Commission or to any party at the time of a utility rate proceeding. Finally, the draft amendment to Rule 25-30.335, F.A.C., would transfer Section 25-30.335(8), which addresses billing for unauthorized use, to draft Rule 25-30.351, F.A.C.

The draft amendments to Rule 25-30.350, F.A.C., include methods for calculating revised bills for water and wastewater service in cases of underbilling and methods for refunding customers in cases of overbilling. In draft Section 25-30.350(1)(b), utilities' revision of bills in cases of underbilling specifies a backbilling methodology based on average usage for the time period of underbilling and tariff rates in effect for that period. For instances of utility overbilling, draft Section 25-30.350(2) requires the utility to refund the overcharge amount to the customer based on available records, or estimate the overcharge amount based upon past consumption if the commencement of overcharging cannot be determined. According to the

draft amendment, the customer is allowed to elect to receive the refund as a credit to future billing or, if the refund is in excess of \$20, as a one-time payment.

Draft Rule 25-30.351, F.A.C., Unauthorized Use, specifies that water and/or wastewater utilities may bill for fraudulent or unauthorized use of services by estimating the water and/or wastewater services used based on the customer's past consumption.

The following sections of this Statement of Estimated Regulatory Cost (SERC) address the statutory provisions appearing in Section 120.541(2), F.S., applicable to the draft rule and draft rule amendments.

1. Economic Analysis Showing Whether the Rules Are Likely to Have an Adverse Impact on Either Economic Growth or Business Competitiveness In Excess of \$1 Million Within 5 Years.

Subparagraph 120.541(2)(a)1, Florida Statutes (F.S.), requires an economic analysis showing whether the draft rule directly or indirectly is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule. Similarly, Subparagraph 120.541(2)(a)2, F.S., requires an economic analysis showing whether the draft rule directly or indirectly is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, production, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule.

On October 5, 2012, staff issued a data request to 145 water and/or wastewater companies to collect information about the expected cost impacts of draft amendments to Rules 25-30.335 and 25-30.350, F.A.C., and draft Rule 25-30.351, F.A.C. Five responses were received from water companies, including four Class C water companies (i.e. companies with annual water revenues less than \$200,000) and one Class B water company (i.e. company with annual water revenue less than \$1,000,000 but at least \$200,000). While the response rate to staff's data request was obviously quite low, the answers were consistent. All reporting companies estimated zero or minimal incremental expenses associated with the two draft rules and the proposed rule.

Staff incorporated a series of changes to the draft rules during the month of January 2013. The overall affect of these modifications to the draft rules was to slightly lessen the proposed requirements of the draft amendments to Rule 25-30.335, F.A.C., Customer Billing, on water and wastewater utilities. On January 29, 2013, staff issued data requests to Utilities, Inc., and U.S. Water Services Corporation (U.S. Water) similar to the October 5, 2012, data request. Utilities, Inc. includes one Class A company and three Class B companies and U.S. Water includes three Class B and C companies. Utilities, Inc. reported incremental annual costs associated with draft amendments to Rule 25-30.335, F.A.C., would be zero for all portions of the draft rule except for draft Section 25-30.335(2)(c). The draft rule section would require written explanations be provided to customers receiving two estimated bills within a 6 month period. Utilities, Inc. did

not specify the incremental costs for that section of the draft rule in its response. According to the utility, compliance with draft Section 25-30.335(2)(c) would require input from its software developer since space on its bills is limited to 253 characters. Meanwhile, U.S. Water reported an estimated \$15,000 in incremental annual costs associated with draft Sections 25-30.335(2)(b), (c), and (d) for its 3 water systems, with an average annual cost per system of \$5,000.

An additional workshop to further consider the newly drafted rules and associated costs was held on February 28, 2013. With minor draft rule modifications, consensus draft rules were achieved at the workshop. Staff requested that interested persons provide post-workshop comments including all further estimated cost impact information associated with the draft rules by March 14, 2013. Utilities, Inc. reported that draft Section 25-30.335(2)(c) is expected to result in annual incremental costs of \$1,872 to provide written explanatory notices to customers who receive two estimated bills in a six month period, in addition to a one-time programming cost of \$5,000. No other comments were received.

Based on the above, incremental annual transactional costs of less than \$20,000 are expected to be incurred by water and wastewater utilities, in the aggregate, to comply with the draft changes to Rule 25-30.335, F.A.C. Inclusive of one time investments in programming costs, the five year impact of the rule is less than \$100,000. Thus, it is unlikely that Rule 25-30.335, F.A.C., would have an adverse impact on either economic growth or business competitiveness in excess of \$1 million in the aggregate within five years of the rule's implementation.

The draft changes to Rule 25-30.350, F.A.C., provide clarity to utilities regarding the method for calculating revised bills in cases of underbillings, but this change is not expected to increase costs to utilities or customers. Similarly, the draft changes to the rule to clarify the method for determining the amount of the overcharge in cases of overbilling are not expected to increase costs to utilities or customers. Draft Rule 25-30.351, F.A.C., provides clarity for the method of estimating a bill in cases of unauthorized use, but it is not expected to increase costs to utilities or utilities' general body of ratepayers based on the filed data request responses. Thus, it is unlikely that the draft amendment to Rule 25-30.350, F.A.C., or draft Rule 25-30.351, F.A.C., would have an adverse impact on either economic growth or business competitiveness in excess of \$1 million in the aggregate within five years of the rule's implementation.

2. Economic Analysis Showing Whether the Rules Are Likely to Increase Regulatory Costs In Excess of \$1 Million Within 5 Years

Subparagraph 120.541(2)(a)3, F.S., requires an economic analysis showing whether the draft rule directly or indirectly is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years of the rule's implementation. Regulatory costs include good faith estimates of both the incremental transactional costs and the incremental agency costs associated with each draft rule amendment and draft rule. As discussed in Section 1 above, the utilities' have indicated that the annual incremental costs associated with draft Rule 25-30.335, F.A.C., is less than \$20,000. Rule 25-30.350 and draft Rule 25-30.351 do not appear to increase costs to the utilities or the utilities' general body of ratepayers. Also, the

agency costs for all three rules, as indicated in Section 4 below, are expected to be de minimus. Thus, for the draft rule and the draft rule amendments taken separately, it is unlikely that the increase in regulatory costs would have an adverse impact on either economic growth or business competitiveness in excess of \$1 million in the aggregate within five years of the rule's implementation.

3. Estimated Number of Entities Required to Comply and General Description of Individuals Affected

Subparagraph 120.541.(2)(b), F.S., requires a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a general description of the types of individuals anticipated to be affected by the rule. The number of entities which will be required to comply with each of the draft amended rules and the draft rule is 140 water and/or wastewater companies.

4. Rule Implementation and Enforcement Costs and Impact on Revenues For The Agency and Other State and Local Government Entities

Section 120.541(2)(c), F.S., requires a good faith estimate of the cost to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues. If the draft rule and draft rule amendments are approved and become effective, each such rule is expected to have minimal impact on the Commission's costs of rule implementation and enforcement. The number of customer complaints received by the Commission associated with estimated bills, overbillings, and underbillings is expected to decline with the increased clarity and consistency which would be provided by the rules, ultimately reflected in reduced Commission staff work requirements. Such reduction in staff time spent resolving complaints may be offset by possible increases in staff reviews pertaining to estimated billings, overbillings, and underbillings in the context of rate proceedings. Thus, the cost of implementing and enforcing the proposed rules, individually and collectively, is expected to be de minimus. No other state or local government entities' costs are impacted by the rules.

Draft Rule 25-30.351, F.A.C., if it becomes effective, would clarify the method for billing for unauthorized use of facilities, but the draft rule is not expected to materially impact the revenue received from unauthorized users, so no impact is expected in the regulatory assessment fees payable to the Commission. Likewise, there is no anticipated effect on state and local revenues related to the draft amendments to Rules 25-30.335 and 25-30.350, F.A.C.

5. Estimated Transactional Costs to Individuals and Entities

Section 120.541(2)(d), F.S., requires a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local government entities, required to comply with the requirements of the rule. The analysis of the likely transactional costs appears in Section 1 above. The increase in costs likely to be incurred by individuals and entities,

Cindy B. Miller
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including local government entities, associated with the draft amendment to Rule 25-30.335, F.A.C., is less than \$20,000 per year. The annual increase in costs likely to be incurred by individuals and entities, including local government entities, associated with the draft amendment to Rule 25-30.350, F.A.C., and draft Rule 25-30.351, F.A.C., is zero.

6. Impact On Small Businesses, Small Cities, Or Small Counties

Section 120.541(2)(e), F.S., requires an analysis of the impact of the proposed changes on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined in Section 120.52, F.S. The companies responding to the data requests generally indicated that the draft rules would result in minimal or no impact to small businesses, small counties, and small cities. Some companies responded that estimating the impact of the draft revisions on small businesses, small counties, and small cities is not applicable since the companies do not have such entities in their service areas. The draft amendments and the draft rule are not expected to adversely impact small businesses, small counties, or small cities.

7. Additional Information Deemed Useful By The Agency

None.

cc: Marshall Willis
Jim Dean