

FLORIDA PUBLIC SERVICE COMMISSION

Item 2

VOTE SHEET

FILED NOV 05, 2015
DOCUMENT NO. 07066-15
FPSC - COMMISSION CLERK

November 5, 2015

Docket No. 150198-WS – Proposed adoption of Rules 25-30.029 and 25-30.038 and amendment of Rules 25-30.030, 25-30.032, 25-30.033, 25-30.034, 25-30.035, 25-30.036, 25-30.037, 25-30.039, and 25-30.090, F.A.C.

Issue 1: Should the Commission propose the adoption of Rules 25-30.029, Legal Description of Service Area, and 25-30.038, F.A.C., Application for Transfer to a Governmental Authority, and the amendment of Rules 25-30.030, Notice of Application; 25-30.032, Applications; 25-30.033, Application for Original Certificate of Authorization and Initial Rates and Charges; 25-30.034, Application for Certificate of Authorization for Existing Utility Currently Charging for Service; 25-30.035, Application for Grandfather Certificate; 25-30.036, Application for Amendment to Certificate of Authorization to Extend or Delete Service; 25-30.037, Application for Authority to Transfer; 25-30.039, Application for Name Change; and 25-30.090, F.A.C., Abandonments?

Recommendation: Yes, the Commission should propose the adoption of Rules 25-30.029 and 25-30.038, F.A.C., and the amendment of Rules 25-30.030, 25-30.032, 25-30.033, 25-30.034, 25-30.035, 25-30.036, 25-30.037, 25-30.039, and 25-30.090, F.A.C., as set forth in Attachment A of staff's memorandum dated October 22, 2015.

APPROVED

COMMISSIONERS ASSIGNED: All Commissioners

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING



REMARKS/DISSENTING COMMENTS:

See oral modification, assigned DN 06968-15, attached.

Vote Sheet

November 5, 2015

Item 2

Docket No. 150198-WS – Proposed adoption of Rules 25-30.029 and 25-30.038 and amendment of Rules 25-30.030, 25-30.032, 25-30.033, 25.30.034, 25-30.035, 25-30.036, 25-30.037, 25-30.039, and 25-30.090, F.A.C.

(Continued from previous page)

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rules should be filed with the Department of State, and the docket should be closed.

APPROVED

From: Kathy Shoaf
Sent: Monday, November 02, 2015 11:32 AM
To: Braulio Baez; Lisa Harvey; Apryl Lynn; Charlie Beck; Mary Anne Helton; CLK - Agenda Staff; Commissioners & Staffs; Samantha Cibula; Kathryn Cowdery; Cindy Muir
Cc: Terri Fleming; Kate Hamrick
Subject: FW: Request to make oral modification to Item 2 on the November 5, 2015 Agenda Conference, Docket No. 150198-WS
Attachments: Oral Mod Nov 5 Agenda.doc

Please see the approved Oral Modification to Item 2 on the November 5, 2015, Commission Conference.

Kathy Shoaf
Executive Assistant to
Braulio Baez, Executive Director
Florida Public Service Commission
Telephone: (850)413-6053
kshoaf@psc.state.fl.us

From: Braulio Baez
Sent: Monday, November 02, 2015 11:19 AM
To: Kathryn Cowdery
Cc: Lisa Harvey; Charlie Beck; Mary Anne Helton; Carlotta Stauffer; Paul Vickery; Samantha Cibula; Kathy Shoaf
Subject: RE: Request to make oral modification to Item 2 on the November 5, 2015 Agenda Conference, Docket No. 150198-WS

Approved. Thank you.

Sent from my T-Mobile 4G LTE Device

----- Original message -----

From: Kathryn Cowdery <kcowdery@PSC.STATE.FL.US>
Date: 11/2/2015 10:51 AM (GMT-05:00)
To: Braulio Baez <BBaez@PSC.STATE.FL.US>
Cc: Lisa Harvey <LSHarvey@PSC.STATE.FL.US>, Charlie Beck <cbeck@psc.state.fl.us>, Mary Anne Helton <MHelton@PSC.STATE.FL.US>, Carlotta Stauffer <CStauffe@PSC.STATE.FL.US>, Paul Vickery <PVickery@PSC.STATE.FL.US>, Samantha Cibula <SCibula@PSC.STATE.FL.US>
Subject: Request to make oral modification to Item 2 on the November 5, 2015 Agenda Conference, Docket No. 150198-WS

After filing the staff recommendation in this docket, the Office of Public Counsel brought to our attention corrections that should be made to Forms 1001, 1005 and 1007, attached to the staff recommendation as part of Attachment A. To correct these errors, staff requests approval to make the following oral modifications to Forms 1001, 1005, 1007:

- Draft Form 1001: On page 92 of the staff recommendation, item C) 5) of the form should be deleted because copies of customer complaints are not a requirement under draft Rule 25-30.033, F.A.C.

- Draft Form 1005: On page 123 of the staff recommendation, item I) of the form should be deleted because it duplicates item (F) on page 122.
- An earlier, non-final version of draft Form 1007 that is not consistent with the recommended rule amendments was inadvertently attached to the staff recommendation (pages 142-149). This version should be replaced with the current, correct version of draft Form 1007 that is consistent with the recommended rule amendments, a copy of which is attached to this e-mail.

These changes do not impact the language of the staff recommendation or recommended rule amendments, but serve only to correct inadvertent errors in these three forms themselves. Please let me know if you approve of this request.

FLORIDA PUBLIC SERVICE COMMISSION

**INSTRUCTIONS FOR COMPLETING
APPLICATION FOR A TRANSFER OF MAJORITY ORGANIZATION CONTROL
OF A REGULATED UTILITY**

**(Pursuant to Section 367.071, Florida Statutes, and
Rule 25-30.037(4), Florida Administrative Code)**

General Information

The attached form is an example application that may be completed by the applicant and filed with the Office of Commission Clerk to comply with Rule 25-30.037(4), Florida Administrative Code (F.A.C.). Any questions regarding this form should be directed to the Division of Engineering at (850) 413-6910.

Instructions

1. Pursuant to Rule 25-30.037(1)(a), F.A.C., if a transfer occurs prior to Commission approval, the utility shall submit an application for authority to transfer no later than 90 days after the sale closing date.
2. Fill out the attached application form completely and accurately.
3. Complete all the items that apply to your utility. If an item is not applicable, mark it "N.A." Do not leave any items blank.
4. Remit the proper filing fee pursuant to Rule 25-30.020, Florida Administrative Code, with the application.
5. Provide proof of noticing pursuant to Rule 25-30.030, F.A.C. This may be provided as a late-filed exhibit.
6. The completed application, attached exhibits, and the proper filing fee should be mailed to:

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

**APPLICATION FOR A TRANSFER OF MAJORITY ORGANIZATION CONTROL
OF A REGULATED UTILITY**

**(Pursuant to Section 367.071, Florida Statutes, and
Rule 25-30.037(4), Florida Administrative Code)**

Pursuant to Rule 25-30.037(1)(a), F.A.C., if a transfer occurs prior to Commission approval, the utility shall submit an application for authority to transfer no later than 90 days after the sale closing date.

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

The undersigned hereby makes application for the approval of a transfer of majority ownership of the regulated utility. The change is for all or part of the facilities operated under Water Certificate No. _____ and/or Wastewater Certificate No. _____ located in _____ County, Florida, and submits the following:

PART I APPLICANT INFORMATION

A) Contact Information for Utility/Seller. The utility/seller's certificated name, address, telephone number, and, if applicable, fax number, e-mail address, and website address. The utility's name should reflect the business and/or fictitious name(s) registered with the Department of State's Division of Corporations:

Utility Name

Office Street Address

City State Zip Code

Mailing Address (if different from Street Address)

City State Zip Code

() - Phone Number () - Fax Number

Federal Employer Identification Number

E-Mail Address

Website Address

Water Certificate No. Wastewater Certificate No.

B) The contact information of the seller's authorized representative to contact concerning this application:

Name

Mailing Address

City State Zip Code

() - Phone Number () - Fax Number

E-Mail Address

C) Indicate the nature of the buyer's business organization (check one). Provide documentation from the Florida Department of State, Division of Corporations showing the utility's business name and registration/document number for the business, unless operating as a sole proprietor.

Corporation _____ Number

Limited Liability Company _____ Number

- Partnership _____
Number
- Limited Partnership _____
Number
- Limited Liability Partnership _____
Number
- Sole Proprietorship
- Association
- Other (Specify) _____

If the utility is doing business under a fictitious name, provide documentation from the Florida Department of State, Division of Corporations showing the utility's fictitious name and registration number for the fictitious name.

- Fictitious Name (d/b/a) _____
Registration Number

D) Contact Information for Buyer. The buyer's certificated name, address, telephone number, Federal Employer Identification Number, and if applicable, fax number, e-mail address, website address, and new name of the utility if the buyer plans to operate under a different name. The buyer's business name, and if applicable, new utility name, should reflect the business and/or fictitious name(s) registered with the Department of State's Division of Corporations.

Buyer's Name

Office Street Address

City State Zip Code

Mailing Address (if different from Street Address)

City State Zip Code

() - Phone Number () - Fax Number

Federal Employer Identification Number

E-Mail Address

New Utility Name

E) The contact information of the buyer's authorized representative to contact concerning this application:

Name

Mailing Address

City State Zip Code

() - Phone Number () - Fax Number

E-Mail Address

PART II TRANSFER OF MAJORITY OWNERSHIP

A) DESCRIPTION OF SALE AGREEMENT

1) Exhibit ____ - Provide a copy of the contract for sale and all auxiliary or supplemental agreements. If the sale, assignment, or transfer occurs before Commission approval, the contract shall include a provision that the contract is contingent upon Commission approval.

2) Exhibit _____ - Provide the following documentation of the terms of the transfer:

a) The date the closing occurred or will occur.

b) The purchase price and terms of payment.

c) A list of and the dollar amount of the assets purchased and liabilities assumed or not assumed, including those of non-regulated operations or entities.

d) A description of all consideration between the parties, including promised salaries, retainer fees, stock, stock options, and assumption of obligations.

e) Provisions regarding the disposition, where applicable, of customer deposits and interest thereon, guaranteed revenue contracts, developer agreements, customer advances, debt of the utility, and leases.

f) A statement that the buyer will fulfill the commitments, obligations, and representations of the seller with regard to utility matters.

- g) A provision that the buyer has or will obtain the books and records of the seller, including all supporting documentation for rate base additions since the last time rate base was established for the utility.

- h) A statement that the utility's books and records will be maintained using the National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA).

- i) A statement that the utility's books and records will be maintained at the utility's office(s) within Florida, or that the utility will comply with the requirements of Rule 25-30.110(1)(b) and (c), F.A.C., regarding maintenance of utility records at another location or out-of-state. If the records will not be maintained at the utility's office(s), the statement should include the location where the utility intends to maintain the books and records.

- 3) Exhibit _____ - Provide a description of the ownership transfer, including the date the transfer occurred or will occur and a description of the resulting ownership interests in the utility.

B) FINANCIAL ABILITY

- 1) Exhibit _____ - Provide a detailed financial statement (balance sheet and income statement), audited if available, of the financial condition of the applicant, that shows all assets and liabilities of every kind and character. The financial statements shall be for the preceding calendar or fiscal year. The financial statement shall be prepared in accordance with Rule 25-30.115, F.A.C. If available, a statement of the sources and uses of funds shall also be provided.

- 2) Exhibit _____ - Provide a list of all entities, including affiliates, upon which the buyer is relying to provide funding to the utility and an explanation of the manner and amount of such funding. The list need not include any person or entity holding less than 5 percent ownership interest in the utility. The applicant shall provide copies of any financial agreements between the listed entities and the utility and proof of the listed entities' ability to provide funding, such as financial statements.

C) **TECHNICAL ABILITY; FACILITIES**

- 1) Exhibit _____ - The buyer's experience in the water or wastewater industry.

- 2) Exhibit _____ - Provide the buyer's plans for ensuring continued operation of the utility, such as retaining the existing plant operator(s) and office personnel, or contracting with outside entities.

- 3) Exhibit _____ - Provide a statement from the buyer that after reasonable investigation, the system being acquired appears to be in satisfactory condition and compliance with all applicable standards set by the DEP, or, if the system is in need of repair or improvement, has any outstanding Notice of Violation of any standard set by the DEP or any outstanding consent orders with the DEP, the buyer shall provide a description of the repairs or improvements that have been identified, the governmental entity that required the repairs or improvements, if applicable, the approximate cost to complete the repairs or improvements, and any agreements between the seller and buyer regarding who will be responsible for any identified repairs or improvements.

D) PUBLIC INTEREST, PROPOSED TARIFF, AND ACCOUNTING INFORMATION

- 1) Exhibit _____ - Provide a statement explaining why the transfer is in the public interest.

- 2) Exhibit _____ - Provide tariff sheets reflecting any changes resulting from the transfer. See Rule 25-30.037, F.A.C., for information about water and wastewater tariff forms that are available and may be completed by the applicant and included in the application.

- 3) Exhibit _____ - Provide a statement regarding the disposition of outstanding regulatory assessment fees, fines, or refunds owed and which entity will be responsible for paying regulatory assessment fees and filing the annual report for the year of the transfer and subsequent years.

E) NOTICING REQUIREMENTS

- 1) Exhibit _____ - Provide proof of noticing pursuant to Rule 25-30.030, F.A.C. This may be provided as a late-filed exhibit.

PART III

SIGNATURE

Please sign and date the utility's completed application.

APPLICATION SUBMITTED BY:

Applicant's Signature

Applicant's Name (Printed)

Applicant's Title

Date