

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: February 16, 2018

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Cowdery) *KC*
Division of Economics (Draper, Guffey) *EAD* *SKG* *CRB* *J.M.L.*
Division of Engineering (King, Graves) *W* *JR*
Division of Accounting and Finance (Fletcher) *B*

RE: Docket No. 20180029-WS – Proposed amendment of Rule 25-30.433, F.A.C.,
Rate Case Proceedings.

AGENDA: 03/01/18 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

Rule 25-30.433, Florida Administrative Code (F.A.C), addresses the procedures that apply in water and wastewater rate case proceedings. Pursuant to Rule 25-30.433(1), F.A.C., the Commission shall make a determination on the quality of service provided by the utility in every rate case proceeding. In making its determination, the Commission evaluates three components of water and wastewater utility operations: (1) the quality of the utility's product (water and wastewater); (2) the operational conditions of the utility's plant and facilities; and (3) the utility's attempt to address customer satisfaction.

Following discussion at the September 7, 2017, Internal Affairs Meeting, the Commission directed staff to explore whether Rule 25-30.433, F.A.C., should be amended to move the second component used to evaluate the utility's quality of service – the infrastructure and operational

conditions of the plant and facilities – to a separate section of the rule. The rationale for this amendment to the rule was that operating conditions of the plant do not always affect the quality of service provided by the utility, so it should not be a required component in the Commission’s evaluation of quality of service.

The notice of rule development for Rule 25-30.433, F.A.C., appeared in the November 30, 2017, edition of the Florida Administrative Register, Volume 43, Number 230. A staff rule development workshop was held on December 14, 2017. The Office of Public Counsel, Utilities, Inc. of Florida, U.S. Water Services Corp., and Black Bear Waterworks, Inc., Brendenwood Waterworks, Inc., Brevard Waterworks, Inc., Country Walk Utilities, Inc., Harbor Waterworks, Inc. HC Waterworks, Inc., Jumper Creek Utility Company, Lake Idlewild Utility Company, Lakeside Waterworks, Inc. LP Waterworks, Inc., Merritt Island Utility Company, North Charlotte Waterworks, Inc., Pine Harbour Waterworks, Inc., Raintree Waterworks, Inc., Seminole Waterworks, Inc., Sunny Hills Utility Company, and the Woods Utility Company (hereafter referred to as the “Collective Utilities”) participated in the workshop and filed written post-workshop comments.

This recommendation addresses whether the Commission should propose the amendment of Rule 25-30.433, F.A.C. The Commission has jurisdiction pursuant to Sections 120.54, 350.127(2), 367.0812(5), 367.0814, 367.121, and 367.1213, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-30.433, Rate Case Proceedings, F.A.C.?

Recommendation: Yes, the Commission should propose the amendment of Rule 25-30.433, F.A.C., as set forth in Attachment A. Staff recommends that the Commission certify proposed amended Rule 25-30.433, F.A.C., as a minor violation rule. (Cowdery, King, Graves, Fletcher, Draper, Guffey)

Staff Analysis: Staff recommends that the Commission propose the amendment of Rule 25-30.433, F.A.C., as set forth in Attachment A. Staff is recommending amendments to the rule for three reasons: (1) to move the Commission's consideration of the infrastructure and operational conditions of the plant and facilities from the Commission's evaluation of quality of service to a separate section of the rule; (2) to codify the information the Commission considers when evaluating the utility's quality of service and the infrastructure and operational conditions of the utility's plant and facilities; and (3) to delete language from the rule that conflicts with statutory requirements.

Introductory Paragraph – Deletion of Rule Waiver Language

The first unnumbered paragraph of Rule 25-30.433, F.A.C., contains a general statement that the rule applies to rate case proceedings unless the applicant or any intervenor demonstrates that the rule requirements create an unreasonable burden. If the applicant demonstrates an unreasonable burden, the rule states that the Commission will consider alternatives to the rule requirements and that any proposed alternatives must be filed with the minimum filing requirements.

Staff recommends that the language allowing an applicant to propose an alternative to the rule requirements if the applicant demonstrates that the requirements are unreasonably burdensome should be deleted from the rule. Section 120.542, F.S., governs the procedure by which a person subject to an agency rule may obtain a variance or waiver from a rule. The procedure currently set forth in Rule 25-30.433, F.A.C., conflicts with Section 120.542, F.S., and should be deleted.

Amendment of Subsection (1) - Quality of Service

Removal of Operational Conditions of the Utility's Plant and Facilities From Quality of Service Evaluation

Subsection (1) of Rule 25-30.433, F.A.C., states that the Commission will make a determination on the quality of service provided by the utility in every rate case. The rule states that this determination will be based on an evaluation of three separate components of water and wastewater utility operations: (1) quality of the utility's product (water and wastewater); (2) operational conditions of the utility's plant and facilities; and (3) the utility's attempt to address customer satisfaction.

Staff recommends that the operational conditions of the utility's plant and facilities component should be removed from this section of the rule as one of the factors the Commission considers in its evaluation of a utility's quality of service. Staff believes that this factor should be moved to a separate section of the rule, new Subsection (2), because operating conditions of the plant do

not always affect the quality of service provided to customers by the utility. In those instances where it does affect the quality of service provided to customers, it will be reflected in the quality of the utility's product (water) or in the utility's attempt to address customer satisfaction (water and wastewater), both of which will remain components in the Commission's quality of service evaluation under the amended rule.

Codification of Information Used To Evaluate Quality of Service

Staff also recommends that new paragraphs (1)(a) through (e) of Rule 25-30.433, F.A.C., be added to the rule to codify the information that the Commission currently considers when evaluating the quality of the utility's product (water) and the utility's attempt to address customer satisfaction (water and wastewater). This information ranges from the most recent chemical analyses for each water system to any testimony, complaints, and comments from the utility's customers and others with knowledge of quality of service.

The rule currently states that the Commission will consider sanitary surveys, outstanding citations, violations and consent orders on file with the Department of Environmental Protection (DEP) and county health departments or lack thereof over the preceding three year period. Staff recommends that the three year time period be removed from the rule. In evaluating quality of service, the Commission considers all information properly presented to it up until the close of the record of the hearing, not just information from the preceding three years. The amended rule language would codify existing agency practice.

In its post-workshop comments, OPC stated the rule should be "implemented with the customers' interests in mind." It expressed a concern that the rule language should capture both the oral and written methods that customers communicate with the Commission. Staff believes that the recommended rule language in paragraph (1)(d) – that the Commission will consider any testimony, complaints and comments of the utility's customers and others with knowledge of quality service – is broad enough to sufficiently cover the many ways that customer complaints and comments are provided to the Commission (e.g., both oral and written statements directly from customers, OPC testimony in its representation of customers, Commission staff testimony regarding customer complaints).

Definition of Rate Case Proceeding Under the Rule

In its post-workshop comments, OPC suggested that the terms "rate case" and "rate case proceeding" are not defined in the rule and should apply to all docketed proceedings in which the Commission sets a utility's rates, including grandfather certificate proceedings and original certificate proceedings with existing rates. In response to OPC's comments, the Collective Utilities state that the rule should not apply to grandfather certificate proceedings or original certificate proceedings with existing rates for three reasons: (1) the Commission typically approves the existing rates for such utilities unless there is a concern or finding of potential overearnings; (2) the Commission typically does not establish rate base and/or audit the operating expenses of the utilities during certificate dockets; and (3) certificate cases are under different statutory authority than rate cases.

Staff believes that expanding the rule to certificate dockets could create confusion and result in unintended consequences. For instance, it may mean that customer service hearings would need

to be held in certificate dockets and MFRs would need to be filed with certificate applications. Thus, staff does not recommend that the rule be expanded to grandfather certificate proceedings and original certificate proceedings with existing rates, as suggested by OPC.

Staff, however, agrees with OPC to the extent that the rule is currently unclear as to whether it applies to staff assisted rate cases and limited proceeding rate cases and recommends that the Commission amend the Law Implemented section of the rule to include Section 367.0814, F.S., (staff assisted rate cases) and Section 367.0822, F.S., (limited proceeding rate cases) to reflect that the rule applies to these rate case proceedings in addition to general rate cases filed under Section 367.0812, F.S.

New Subsection (2) – The Commission’s Evaluation of the Infrastructure and Operational Conditions of the Utility’s Plant and Facilities

As discussed above, staff recommends that the Commission’s evaluation of the operational conditions of the utility’s plant and facilities should be deleted from Subsection (1) of Rule 25-30.433, F.A.C., and a new Subsection (2) should be created to address this aspect of utility service. Staff recommends this amendment to the rule because, as discussed above, operating conditions of the plant do not always affect the quality of service provided by the utility.

At the workshop, OPC initially expressed concern with moving the operational conditions of the utility’s plant and facilities to a separate section of the rule, stating that it is a component of the utility’s quality of service. OPC did not address this concern in its post-workshop comments.

Staff does not believe that moving this component to a separate section of the rule will impact the Commission’s ability to review the infrastructure and operational conditions of the plant and facilities to ensure the safe, efficient, and sufficient service to utility customers, as mandated by Section 367.111, F.S. As discussed above, in those instances where the operational condition of the utility’s plant and facilities affects quality of service provided to customers, it will be reflected in the quality of the utility’s product (water) or in the utility’s attempt to address customer satisfaction (water and wastewater), both of which will remain components in the Commission’s quality of service evaluation under the amended rule. If the operational conditions of the plant have not resulted in customer complaints or adversely affected the quality of the utility’s product, it will not impact the Commission’s evaluation of the quality of service provided by the utility.

Nonetheless, the Commission will continue to have the authority under new Subsection (2) of the rule to evaluate the utility’s management of the utility’s operations and facilities. If the Commission finds that the utility’s infrastructure and operational conditions of the plant and facilities do not meet the requirements with Commission Rule 25-30.225, F.A.C., which sets forth the standard for a utility’s plant and facilities, the Commission could, pursuant to Section 367.111, F.S., reduce the utility’s return on equity until the standards are met or institute other remedial measures, such as reducing the utility president’s salary or imposing a fine on the utility, pursuant to Section 367.161, F.S., to bring the utility into compliance with Commission statutes, rules, and orders.

Renumbered Subsection (3) – Working Capital

This subsection addresses working capital. OPC commented that this subsection should be amended to exclude deferred rate case expense in the balance sheet method of working capital and to exclude rate case expense amortization from O&M expenses for purposes of calculating the formula method of working capital for Class B and C utilities. OPC noted that the Commission follows Section 367.081(9), F.S., which stated: “A utility may not earn a return on the unamortized balance of the rate case expense. Any unamortized balance of rate case expense shall be excluded in calculating the utility’s rate base.” OPC believes that the rule should be amended accordingly to be in compliance with this statute and Commission practice and policy.

OPC is correct that the Commission in complying with Section 367.081(9), F.S., excludes deferred rate case expense in the balance sheet method of working capital for Class A utilities and excludes rate case expense amortization from O&M expenses for purposes of calculating the formula method of working capital for Class B and C utilities. However, adding the language suggested by OPC to the rule would not be required for implementation of the statute, because it is already required by the language of Section 367.081(9), F.S. In adopting rules, agencies are not to reiterate or paraphrase statutory material as part of the rule language. See Section 120.545(1)(c), F.S. For this reason, staff does not recommend that renumbered subsection (3) be amended.

Renumbered Subsection (11) – Right of Access and Continued Use of Land

Section 367.1213, F.S., requires a utility to own the land or possess the right to continued use of the land upon which treatment facilities are located. This section provides the Commission with the authority to adopt rules to implement this statute.

In renumbered subsection (11), staff recommends that the rule language be amended to reflect the language used in the statute. Staff further recommends that the Commission add language to the rule, consistent with Commission rules addressing applications for original certificates (Rule 25-30.034(1)(m), F.A.C.), applications for amendment of certificates (Rule 25-30.036(1)(e), F.A.C.), and applications for transfer of certificates (Rule 25-30.037(2)(s), F.A.C.), that documentation demonstrating continued use of the land shall be in the form of a recorded deed, recorded quit claim deed accompanied by title insurance, recorded lease, such as a 99-year lease, or recorded easement.

In its post-workshop comments, OPC questioned why the rule is limited to only treatment facilities, stating that a utility should be required to have the right of access and continued use of land upon which all of its facilities and equipment are located. OPC states that this should include the utility’s water source of supply plant, wastewater disposal, wastewater reuse, water transmission and distribution, and wastewater collection lines.

In response to OPC’s comments, Utilities, Inc. of Florida states that it is unaware of “any problem that would compel or justify a change in the status quo.” It further states that obtaining such documentation would have a “monumental” impact on a utility the size of Utilities, Inc. of Florida and would result in “substantial additional rate case expense.”

The Collective Utilities also disagreed with OPC's comments. They stated that OPC's suggestion would expand the rule beyond the statutory authority of Section 367.1213, F.S., and that it appears to be a "solution in search of a problem that does not exist."

Section 367.1213, F.S., only requires that a utility own the land or possess the right to continued use of the land upon which treatment facilities are located. Staff recommends that the Commission not adopt OPC's suggested rule language, as it would expand the rule beyond its statutory authority.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54(3)(b)1., F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. A SERC was prepared for this rulemaking and is appended as Attachment B. As required by Section 120.541(2)(a)1., F.S., the SERC analysis includes whether the rule amendments are 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 5 years after implementation. Section 120.541(2)(a)1., F.S. None of the impact/cost criteria will be exceeded as a result of the recommended revisions.

The SERC concludes that the rule amendments will likely not directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within 1 year after implementation. Further, the SERC concludes that the rule amendments 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 5 years of implementation. Thus, the rule amendments do not require legislative ratification, pursuant to Section 120.541(3), F.S. In addition, the SERC states that the rule amendments would have no impact on small businesses, would have no implementation or enforcement cost on the Commission or any other state and local government entity, and would have no impact on small cities or small counties. The SERC states that transactional costs likely to be incurred by individuals and entities required to comply with the requirements of the rule are expected to be minimal.

Minor Violation Rules Certification

Pursuant to Section 120.695, F.S., beginning July 1, 2017, for each rule filed for adoption, the Commission is required to certify whether any part of the rule is designated as a rule the violation of which would be a minor violation. A list of the Commission rules designated as minor violation rules is published on the Commission's website, as required by Section 120.695(2), F.S. Currently, Rule 25-30.433, F.A.C., is on the Commission's list of rules designated as minor violations. If the Commission proposes the amendment of Rule 25-30.433, F.A.C., the rule would continue to be considered a minor violation rule. Therefore, for purposes of filing the amended rule for adoption with the Department of State, staff recommends that the Commission certify proposed amended Rule 25-30.433, as minor violation rules.

Conclusion

The Commission should propose the amendment of Rule 25-30.433, F.A.C., as set forth in Attachment A. Staff recommends that the Commission certify proposed amended Rule 25-30.433, F.A.C., as a minor violation rule.

Issue 2: Should this docket be closed?

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

Staff Analysis: If no requests for hearing or comments are filed, the rule should be filed with the Department of State, and the docket should be closed.

1 **25-30.433 Rate Case Proceedings.**

2 In a rate case proceeding, the following provisions shall apply, ~~unless the applicant or any~~
3 ~~intervenor demonstrates that these rules result in an unreasonable burden. In these instances,~~
4 ~~fully supported alternatives will be considered by the Commission. Any alternatives proposed~~
5 ~~by the utility must be filed with the minimum filing requirements.~~

6 ~~(1) The Commission in every rate case shall make a determination of the quality of service~~
7 ~~provided by the utility. This shall be derived from an evaluation of three separate components~~
8 ~~of water and wastewater utility operations: quality of utility's product (water and wastewater);~~
9 ~~operational conditions of utility's plant and facilities; and the utility's attempt to address~~
10 ~~customer satisfaction. Sanitary surveys, outstanding citations, violations and consent orders~~
11 ~~on file with the Department of Environmental Protection (DEP) and county health~~
12 ~~departments or lack thereof over the preceding 3-year period shall also be considered. DEP~~
13 ~~and county health department officials' testimony concerning quality of service as well as the~~
14 ~~testimony of utility's customers shall be considered.~~

15 (1) The Commission in every rate case shall make a determination of the quality of service
16 provided by the utility by evaluating the quality of the utility's product (water) and the utility's
17 attempt to address customer satisfaction (water and wastewater). In making this
18 determination, the Commission shall consider:

19 (a) The most recent chemical analyses for each water system as described in Rule 25-
20 30.440(3), F.A.C.;

21 (b) Any Department of Environmental Protection (DEP) and county health department
22 citations, violations and consent orders that address quality of service;

23 (c) Any DEP and county health department officials' testimony concerning quality of
24 service;

25 (d) Any testimony, complaints and comments of the utility's customers and others with
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 knowledge of the utility's quality of service; and

2 (e) Any utility testimony and responses to the information provided in paragraphs (1)(a) –
3 (d) above.

4 (2) In order to ensure safe, efficient, and sufficient service to utility customers, the
5 Commission shall consider whether the infrastructure and operational conditions of the plant
6 and facilities are in compliance with Rule 25-30.225, F.A.C. In making this determination,
7 the Commission shall consider:

8 (a) Any testimony of DEP and county health department officials;

9 (b) Inspections, including sanitary surveys for water systems and compliance evaluation
10 inspections for wastewater systems; citations, violations and consent orders issued to the
11 utility;

12 (c) Any testimony, complaints and comments of the utility's customers and others with
13 knowledge of the infrastructure and operational conditions of the utility's plant and facilities;
14 and

15 (d) Any utility testimony and responses to the information provided in paragraphs (2)(a) –
16 (c) above.

17 ~~(3)(2)~~ Working capital for Class A utilities shall be calculated using the balance sheet
18 approach. Working capital for Class B and C utilities shall be calculated using the formula
19 method (one-eighth of operation and maintenance expenses).

20 ~~(4)(3)~~ Used and useful debit deferred taxes shall be offset against used and useful credit
21 deferred taxes in the capital structure. Any resulting net debit deferred taxes shall be included
22 as a separate line item in the rate base calculation. Any resulting net credit deferred taxes shall
23 be included in the capital structure calculation. No other deferred debits shall be considered in
24 rate base when the formula method of working capital is used.

25 ~~(5)(4)~~ The averaging method used by the Commission to calculate rate base and cost of
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existing law.

1 capital shall be a 13-month average for Class A utilities and the simple beginning and end-of-
2 year average for Class B and C utilities.

3 ~~(6)(5)~~ Non-used and useful adjustments shall be applied to the applicable depreciation
4 expense. Property tax expense on non-used and useful plant shall not be allowed.

5 ~~(7)(6)~~ Charitable contributions shall not be recovered through rates.

6 ~~(8)(7)~~ Income tax expense shall not be allowed for subchapter S corporations, partnerships
7 or sole proprietorships.

8 ~~(9)(8)~~ Non-recurring expenses shall be amortized over a 5-year period unless a shorter or
9 longer period of time can be justified.

10 ~~(10)(9)~~ The amortization period for forced abandonment or the prudent retirement, in
11 accordance with the National Association of Regulatory Utility Commissioners Uniform
12 System of Accounts, of plant assets prior to the end of their depreciable life shall be calculated
13 by taking the ratio of the net loss (original cost less accumulated depreciation and
14 contributions-in-aid-of-construction (CIAC) plus accumulated amortization of CIAC plus any
15 costs incurred to remove the asset less any salvage value) to the sum of the annual
16 depreciation expense, net of amortization of CIAC, plus an amount equal to the rate of return
17 that would have been allowed on the net invested plant that would have been included in rate
18 base before the abandonment or retirement. This formula shall be used unless the specific
19 circumstances surrounding the abandonment or retirement demonstrate a more appropriate
20 amortization period.

21 ~~(11)(10)~~ A utility is required to have the right of access and continued use of ~~own~~ the land
22 upon which the utility treatment facilities are located, ~~or possess the right to the continued use~~
23 ~~of the land, such as a 99-year lease.~~ Documentation of continued use shall be in the form of a
24 recorded warranty deed, recorded quit claim deed accompanied by title insurance, recorded
25 lease such as a 99-year lease, or recorded easement. ~~The Commission may consider a written~~

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1 ~~ease~~ment or other cost-effective alternative.

2 (12)(11) In establishing an authorized rate of return on common equity, a utility, in lieu of
3 presenting evidence, may use the current leverage formula adopted by Commission order. The
4 equity return established shall be based on the equity leverage order in effect at the time the
5 Commission decides the case.

6 (13)(12) Nonutility investment should be removed directly from equity when reconciling
7 the capital structure to rate base unless the utility can show, through competent evidence, that
8 to do otherwise would result in a more equitable determination of the cost of capital for
9 regulatory purposes.

10 (14)(13) Interest expense to be included in the calculation of income tax expense shall be
11 the amount derived by multiplying the amount of the debt components of the reconciled
12 capital structure times the average weighted cost of the respective debt components. Interest
13 expense shall include an amount for the parent debt adjustment in those cases covered by Rule
14 25-14.004, F.A.C. Interest shall also be imputed on deferred investment tax credits in those
15 cases covered by 26 CFR Part 1, s. 1.46-6(b)(2)(i), (3) and (4)(ii) issued May 22, 1986 and
16 effective for property constructed or acquired on or after August 15, 1971.

17 *Rulemaking Authority 350.127(2), 367.0812(5), 367.0814, 367.121, 367.1213 FS. Law*

18 *Implemented 367.081, 367.0812(1), 367.0814, 367.0822, 367.1213, ~~376.1213~~ FS. History—*

19 *New 11-30-93, Amended 12-14-93 _____.*

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-M-E-M-O-R-A-N-D-U-M-

DATE: February 13, 2018

TO: Kathryn Gale Winter Cowdery, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst I, Division of Economics *SKG*

RE: Statement of Estimated Regulatory Costs (SERC) for Proposed Amendments to Rule 25-30.433, Florida Administrative Code (F.A.C.)

The purpose of this rulemaking initiative is to: (1) delete language from the rule that conflicts with statutory requirements; (2) move the Commission's consideration of the infrastructure and operational conditions of the plant and facilities from the Commission's evaluation of quality of service to a separate section of the rule; (3) codify the information the Commission considers when evaluating the utility's quality of service; (4) codify the information the Commission considers when evaluating the infrastructure and operational conditions of the utility's plant and facilities; and (5) amend renumbered subsection (11) of the rule to reflect statutory language related to the right of access and continued use of the land upon which utility treatment facilities are located.

The attached SERC addresses the considerations required pursuant to Section 120.541, Florida Statutes (F.S.). A staff rule development workshop was held on December 14, 2017 to solicit input on the proposed rule revisions.

The proposed rule revisions are not imposing any new regulatory requirements. The SERC analysis indicates that the proposed rule amendments 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 amendment would have no impact on small businesses, would have no implementation cost on the Commission or other state and local government entities, and would have no impact on small cities or counties. None of the impact/cost criteria established in Section 120.541(2)(a), F.S., will be exceeded as a result of the proposed revisions.

Cc: Draper, Daniel, Shafer, King, SERC file

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rule 25-30.433, F.A.C.

1. Will the proposed rule have an adverse impact on small business?
[120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes No

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)1, F.S.]

Economic growth	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Private-sector job creation or employment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Private-sector investment	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets)	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Productivity	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Innovation	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes

No

Economic Analysis: A summary of the recommended rule revisions is included in the attached memorandum to Counsel. Specific elements of the associated economic analysis are discussed below in Sections B through F of this SERC. Staff believes that none of the impacts/cost criteria established in Paragraph 120.541(2)(a), F.S. will be exceeded as a result of the proposed rule revisions. The proposed rule revisions are not imposing any new regulatory requirements, only codifying existing rule requirements. The proposed revisions are intended to make the requirements more specific and reformatting to make the rule consistent with the certification rules.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

Potentially affected entities include 132 investor-owned water and wastewater utilities that serve approximately 170,242 Florida customers. Water and wastewater utilities which will come under the jurisdiction of the Commission in the future also would be required to comply.

(2) A general description of the types of individuals likely to be affected by the rule.

The 132 investor-owned water and wastewater utilities that are located in 38 counties.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

None. To be done with the current workload and existing staff.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- None.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

D. 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. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule. [120.541(2)(d), F.S.]

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation. The 132 investor-owned water and wastewater utilities already are required to comply with the rules that are being revised to better align the rule with the certification rules and there are no new regulatory requirements being proposed in the revisions. Staff believes that there would be no additional transactional costs associated with the proposed revisions. If a utility were to incur new costs, staff believes that it will be minimal.
- Other. Provide an explanation for estimate and methodology used.

E. An analysis of the impact on small businesses, and small counties and small cities:

[120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- No impact on small cities or small counties.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful.
[120.541(2)(f), F.S.]

- None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

- No regulatory alternatives were submitted.
- A regulatory alternative was received from
- Adopted in its entirety.
 - Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.