

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-**

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**DATE:** April 22, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Office of the General Counsel (DuVal) *SMC*  
Division of Economics (Bethea, Sibley, Guffey, Hudson) *JGH*

**RE:** Docket No. 20200240-WS – Proposed amendment of Rule 25-30.460, F.A.C.,  
Application for Miscellaneous Service Charges.

**AGENDA:** 05/04/21 – Regular Agenda – Rule Proposal – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** La Rosa

**RULE STATUS:** Proposal May Be Deferred

**SPECIAL INSTRUCTIONS:** None

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### Case Background

This rulemaking was initiated to update Rule 25-30.460, Florida Administrative Code (F.A.C.), which addresses water and wastewater utility miscellaneous service charges. Notice of Rule Development for this rule appeared in the July 16, 2020 edition of the Florida Administrative Register, Vol. 46, No. 138. No rule development workshop was requested, and a rule development workshop was not held.

This recommendation addresses whether the Commission should propose the amendment of Rule 25-30.460, F.A.C. The Commission has jurisdiction pursuant to Sections 120.54, 350.127(2), 367.081, 367.091, and 367.121, Florida Statutes (F.S.).

## Discussion of Issues

**Issue 1:** Should the Commission propose amendments to Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges?

**Recommendation:** Yes, the Commission should propose amendments to Rule 25-30.460, F.A.C., as set forth in Attachment A. The Commission should certify Rule 25-30.460, F.A.C., as a minor violation rule. (DuVal, Bethea, Sibley, Guffey, Hudson)

**Staff Analysis:** Staff recommends several amendments to Rule 25-30.460, F.A.C., as set forth in Attachment A. These recommended amendments will add clarity and specificity to the rule language. Additionally, they will update the rule to define the various miscellaneous service charges for which water and wastewater utilities may request the Commission's approval. The draft amendments to Rule 25-30.460, F.A.C., are discussed below.

### **Subsection (1): Utilities' Assessment of Miscellaneous Service Charges**

Subsection (1) of the rule addresses the water and wastewater utilities' ability to request Commission approval of miscellaneous service charges and sets forth parameters by which such charges may be levied.

The draft amendments to subsection (1) clarify that utilities providing both water and wastewater services should assess only one instance of a miscellaneous service charge for a single event. When miscellaneous service charges are designed, they are for the utility as a whole. The miscellaneous service charges appear in both the water and wastewater tariffs. However, for utilities that offer both water and wastewater services, miscellaneous service charges are not intended to be individual system charges. The Commission-approved tariffs for miscellaneous service charges currently contain language addressing the applicability of the charges; explaining that only one instance of a charge is appropriate for a single event when the utility provides both water and wastewater services. This recommended amendment clarifies the rule language and adds consistency to utilities' interpretation and application of the rule language.

The draft amendments to subsection (1) also remove references to current miscellaneous service charges categories, as these are revised with updated definitions in staff's draft amendments to subsection (2).

### **Subsection (2): Definitions of Miscellaneous Service Charges**

Staff is recommending a new subsection (2) to the rule. Draft subsection (2) updates the definitions of current miscellaneous service charges to reflect the evolution of certain charges, to correct any lack of consistency regarding costs and services included within the current charges, and to resolve any ambiguity in the existing definitions. Draft subsection (2) also includes additional miscellaneous service charges that the Commission considers for approval.

Draft paragraphs (2)(a) and (b) provide updated definitions for premises visit and violation reconnection charges to resolve any inconsistency or ambiguity between the existing definitions of initial connections, normal reconnections, violation reconnections, and premises visit charges. Staff removed the definitions for initial connection charges and normal reconnection charges because those services are reflected in the draft definition of the premises visit charge.

Draft paragraph (2)(c) defines a convenience charge as a charge that is levied when a customer pays a utility bill with a debit or credit card. Draft paragraph (2)(d) defines an investigation of meter tampering charge as a charge that is levied when an investigation reveals unauthorized connection to, or tampering with, a utility's meter or equipment, pursuant to paragraph 25-30.320(2)(j), F.A.C. Draft paragraph (2)(e) defines a late payment charge as a charge that is levied when a customer is delinquent in paying a bill for service, pursuant to subsection 25-30.335(4), F.A.C. Draft paragraph (2)(f) defines a non-sufficient funds charge as a charge that is levied when a customer's payment is refused by the drawee because of lack of funds, credit, or an account, pursuant to Section 68.065, F.S.

### **Subsection (3): After Hours Charges**

Draft subsection (3) is new to the rule and replaces the language of current subsection (2) that addresses after hours charges. Staff's draft subsection (3) language simplifies the definition of the after hours charge and removes any ambiguity in the existing definition.

### **Minor Violation Rules Certification**

Pursuant to Section 120.695, F.S., for each rule filed for adoption, the agency head must certify whether any part of the rule is designated as a rule the violation of which would be a minor violation. Rule 25-30.460, F.A.C., is currently listed on the Commission's website as a rule for which a violation would be minor because violation of the rule would not result in economic or physical harm to a person or have an adverse effect on the public health, safety, or welfare or create a significant threat of such harm.

The amendments to Rule 25-30.460, F.A.C., would not change its status as a minor violation rule. Thus, staff recommends that the Commission certify Rule 25-30.460, F.A.C., as a minor violation rule.

### **Statement of Estimated Regulatory Costs**

Pursuant to Section 120.54(3)(b), F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. The SERC is appended as Attachment B to this recommendation.

The SERC concludes that the rule amendments will not likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within one year after implementation. Further, the SERC economic analysis concludes that the rule amendments will not likely have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the rules do not require legislative ratification pursuant to Section 120.541(3), F.S.

In addition, the SERC states that the rule amendments will not have an adverse impact on small business and will have no impact on small cities or counties. The SERC also concludes that the recommended amendments will not result in increased transactional costs to utilities required to comply with the rule, and, instead, will result in cost reductions and administrative efficiencies. No regulatory alternatives were submitted pursuant to Section 120.541(1)(a), F.S. None of the impact/cost criteria established in Section 120.541(2)(a), F.S., will be exceeded as a result of the recommended amendments to Rule 25-30.460, F.A.C.

**Conclusion**

Staff recommends that the Commission propose the amendment of Rule 25-30.460, F.A.C., as set forth in Attachment A. Staff further recommends that the Commission should certify Rule 25-30.460, F.A.C., as a minor violation rule.

Staff notes that if and when the rule amendments go into effect, there will not be an immediate impact on or change to water and wastewater utilities' existing tariffs. The existing tariffs will remain in effect, and the tariffs would be reviewed on a prospective basis to ensure conformance with the amended rule. Staff envisions that this tariff review would be conducted when a company applies for a new miscellaneous service charge under the amended rule.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or Joint Administrative Procedures Committee (JAPC) comments are filed, the rule should be filed with the Department of State, and the docket should be closed. (DuVal)

**Staff Analysis:** If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or JAPC comments are filed, the rule should be filed with the Department of State, and the docket should be closed.

1       **25-30.460 Application for Miscellaneous Service Charges.**

2       (1) All water and wastewater utilities may apply for miscellaneous service charges: and  
3 ~~These charges shall be included in each company's tariff. If a utility provides both water and~~  
4 wastewater services, only a single charge shall be assessed for each of the miscellaneous  
5 service charges identified in subsection (2). and include rates for initial connections, normal  
6 ~~reconnections, violation reconnections, and premises visit charges.~~

7       (2) The following identifies and defines miscellaneous service charges:

8       (a) A premises visit charge is levied when a service representative visits a premises to  
9 discontinue service for nonpayment of a due and collectible bill and the customer pays the  
10 service representative or otherwise makes satisfactory arrangements to pay the bill and service  
11 is not discontinued. A premises visit charge is also levied when a service representative visits  
12 a premises at the customer's request to (1) initiate service, (2) temporarily disconnect service,  
13 (3) reconnect service after a temporary discontinuance, or (4) assess a service issue and it is  
14 found to be the customer's responsibility. Initial connection charges are levied for service  
15 ~~initiation at a location where service did not exist previously.~~

16       ~~(b) Normal reconnection charges are levied for transfer of service to a new customer~~  
17 ~~account at a previously served location, or reconnection of service subsequent to a customer~~  
18 ~~requested disconnection.~~

19       ~~(b)(e) A violation reconnection is a charge that is levied prior to reconnection of an~~  
20 ~~existing customer after discontinuance of service for cause according to subsection 25-~~  
21 ~~30.320(2), F.A.C., including a delinquency in bill payment. Violation reconnection charges~~  
22 ~~are at the tariffed rate for discontinuation of water service and actual cost for discontinuation~~  
23 ~~of wastewater service.~~

24       ~~(c)(d) A convenience charge is levied when a utility bill is paid by debit or credit card.~~

25 ~~Premises Visit Charge is levied when a service representative visits a premises at the~~

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 ~~customer's request for complaint resolution and the problem is found to be the customer's~~  
2 ~~responsibility.~~

3 (d)(e) An investigation of meter tampering charge is levied when an investigation reveals  
4 evidence of unauthorized connection to, or tampering with, the utility's meter or equipment,  
5 pursuant to paragraph 25-30.320(2)(j), F.A.C. Premises Visit Charge (in lieu of disconnection)  
6 ~~is levied when a service representative visits a premises for the purpose of discontinuing~~  
7 ~~service for nonpayment of a due and collectible bill and does not discontinue service because~~  
8 ~~the customer pays the service representative or otherwise makes satisfactory arrangements to~~  
9 ~~pay the bill.~~

10 (e) A late payment charge is levied when a customer is delinquent in paying a bill for  
11 service, pursuant to subsection 25-30.335(4), F.A.C.

12 (f) A non-sufficient funds charge is levied when a customer's payment is refused by the  
13 drawee because of lack of funds, lack of credit, or lack of an account, pursuant to Section  
14 68.065, F.S.

15 ~~(2) A utility may request an additional charge ("after hours charge") for overtime when the~~  
16 ~~customer requests that the service be performed after normal hours. The after hours charge~~  
17 ~~may be at the same rate specified for the existing charge during normal working hours. If the~~  
18 ~~utility seeks a charge other than the normal working hours charge, the utility must file cost~~  
19 ~~support.~~

20 (3) A utility may apply for after hours charges for a premises visit charge or violation  
21 reconnection charge to account for the overtime when the customer requests that the service  
22 be performed after normal business hours.

23 *Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.121, 367.091*  
24 *FS. History—New 11-30-93, Amended\_\_\_\_\_.*

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**DATE:** October 23, 2020

**TO:** Margo A. DuVal, Senior Attorney, Office of the General Counsel

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

**RE:** **Statement of Estimated Regulatory Costs** for the Proposed Adoption of Rule 25-30.460, Florida Administrative Code (F.A.C.), Application for Miscellaneous Service Charges

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Commission staff is proposing revisions to Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges. The rule is applicable to all water and wastewater utilities that are under the Commission's jurisdiction. The purposes of these proposed rule revisions are to provide clarity to definitions of the various miscellaneous service charges, and to make interpretation and application of this rule more consistent and clear. The proposed revisions are discussed in detail in the staff recommendation. The proposed revisions will enable the utilities to interpret and apply the rule in a consistent manner, and also provide clarity about the miscellaneous service charges, which in turn is expected to result in reduced number of customer inquiries to the utilities and to the Commission regarding miscellaneous charges.

The attached Statement of Estimated Regulatory Costs (SERC) addresses the economic impacts and considerations required pursuant to Section 120.541, Florida Statutes (F.S.). Commission staff issued a SERC data request on August 10, 2020 to all Commission regulated water and wastewater utilities. Two utilities responded; on September 3, 2020, Florida Utility Services 1, LLC responded with a suggested revision to add "permanent disconnection" to rule paragraph (2)(a). On September 9, 2020, Indiantown Company filed a letter stating that they will not be responding to the SERC data request, as Indiantown Company will transfer its ownership to the Village of Indiantown.<sup>1</sup>

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 amendments would not potentially have adverse impacts on small businesses, 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.

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<sup>1</sup> Document No. 06132-2020, filed on September 8, 2020 and Document No. 06222-2020 filed on September 9, 2020.

No regulatory alternatives were submitted pursuant to Section 120.541(1)(g), F.S. The SERC concludes that none of the impacts/cost criteria established in Sections 120.541(2)(a), (c), (d), and (e), F.S., will be exceeded as a result of the proposed rule revisions.

cc: SERC File

FLORIDA PUBLIC SERVICE COMMISSION  
STATEMENT OF ESTIMATED REGULATORY COSTS  
Rule 25-30.460, F.A.C., Application for Miscellaneous Service Charges

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  No

Private-sector job creation or employment Yes  No

Private-sector investment Yes  No

(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  No

Productivity Yes  No

Innovation Yes  No

(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: The purposes of the proposed revisions to Rule 25-30.460, F.A.C., are to provide clarity in the definitions of the various miscellaneous service charges, and to make interpretation and application of this rule more consistent and clear. The proposed changes will provide greater clarity to customers and utilities in defining their various miscellaneous service charges and make interpretation and application of the rule more straightforward.

The reduced utility time required to appropriately interpret and apply the rule in a rate case process would result in rate cases being processed in a more efficient and cost-effective manner, which translates to less rate case expenses being passed on to customers. Additionally, the clarity of the rule could result in fewer customer inquiries to the Commission and to the utilities.

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.

131 Commission regulated water and wastewater utilities will be required comply with this rule.

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

Types of individuals to be affected by the rule will be the approximate 111,176 water customers and 74,009 wastewater customers of the Commission regulated water and wastewater utilities.

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.

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.