

Notice of Proposed Rules

PUBLIC SERVICE COMMISSION

SELECT A TYPE: Amendment

RULE NO: RULE TITLE:

25-30.110: Records and Reports; Annual Reports.

25-30.420: Establishment of Price Index; Adjustment of Rates; Requirement of Bond; Filings After Adjustment; Notice to Customers.

PURPOSE AND EFFECT: To update and clarify rule language and forms; to allow Annual Reports to be distributed and filed via email; to provide that the Commission will email the price index documents to the water and wastewater utilities under its jurisdiction; and to update the process to calculate interest on penalties for late filed Annual Reports.

Docket No. 20220171-WS

SUMMARY: Rule 25-30.110, F.A.C., Records and Reports; Annual Reports, is amended to allow the Commission to send a blank copy of the appropriate annual report form via email to water and wastewater utilities under the Commission's jurisdiction, and to allow those utilities to file their completed annual reports with the Commission via email. The amendments also update the process to calculate interest on penalties for late filed annual reports. In addition, Forms PSC 1032 and 1033, incorporated by reference in the rule, were updated to reflect "verification," rather than "certification," and to remove the requirement that two officers identify which of the four items are verified. Finally, the amendments update and clarify the rule language.

Rule 25-30.420, F.A.C., Establishment of Price Index; Adjustment of Rates; Requirement of Bond; Filings After Adjustment; Notice to Customers, is amended to allow the Commission to send via email the Proposed Agency Action order establishing the index for the year and the Price Index Application. Form PSC 1022, incorporated by reference in the rule, was updated to add a "Notice to Customers" referencing the statutory requirements of the Price Index. Finally, the amendments update and clarify the rule language.

SUMMARY OF STATEMENTS OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that these amendments 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 rules. SERCs have been prepared by the agency. The SERCs examined the factors required by Section 120.541(2), FS, and concluded that the rule amendments will not have an adverse impact on economic growth, business competitiveness, or small business, and that there would likely be no transactional costs to the individual and entities, including government entities, required to comply with the rules.

The agency has determined that the proposed rules are not expected to require legislative ratification based on the statements of estimated regulatory costs or, if no SERCs are required, the information expressly relied upon and described herein: based upon the information contained in the SERCs.

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), 367.081(4)(a), 367.121, FS.

LAW IMPLEMENTED: 367.081(4), 367.121, 367.156(1), 367.161, 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: Susan Sapoznikoff, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6630, Susan.Sapoznikoff@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS: [TYPE AND STRIKE VERSION]

**25-30.110 Records and Reports; Annual Reports.**

(1) No change.

(a) Each utility must shall preserve its records in accordance with the "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities" as issued by the National Association of Regulatory Utility Commissioners Commissions, as revised October 2007 May 1985, which is incorporated by reference into this rule. "Regulations to Govern the Preservation of Records of Electric, Gas and Water

Utilities” is copyrighted and may be inspected and examined at no cost at the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850. A copy may be obtained from the National Association of Regulatory Utility Commissioners, 1101 Vermont Avenue, N.W., Suite 200, Washington, D.C. 20005.

1. Those utilities that choose to convert documents from their original media form ~~must shall~~ retain the original source documents as required by ~~subsection (1)(a) of this rule paragraph 25-30.110(1)(a), F.A.C.,~~ for a minimum of three years, or for any lesser period of time specified for that type of record in the “Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities,” after the date the document was created or received by the utility. This paragraph does not require the utility to create paper copies of documents where the utility would not otherwise do so in the ordinary course of its business. ~~The Commission may waive the requirement that documents be retained in their original form~~ Upon a showing by a utility that it employs a storage and retrieval system that consistently produces clear, readable copies that are substantially equivalent to the originals, and clearly reproduces handwritten notations on documents, the utility does not have to meet the requirement to retain documents in their original form.

2. The utility ~~must shall~~ maintain written procedures governing the conversion of source documents to a storage and retrieval system, which procedures ensure the authenticity of documents and the completeness of records. Records maintained in the storage and retrieval system must be easy to search and easy to read.

(b) Unless otherwise authorized by the Commission, each utility ~~must shall~~ maintain its records at the office or offices of the utility within this state and ~~must shall~~ keep those records open for inspection during business hours by Commission staff.

(c) Any utility that keeps its records outside the state ~~must shall~~ reimburse the Commission for the reasonable travel expense incurred by each Commission representative during any review of the out-of-state records of the utility or its affiliates. Reasonable travel expenses are those travel expenses that are equivalent to travel expenses paid by the Commission in the ordinary course of its business.

1. The utility ~~must shall~~ remit reimbursement for out-of-state travel expenses within 30 days from the date the Commission mails the invoice.

2. The reimbursement requirement in paragraph (1)(c) ~~is not applicable for the following shall be waived:~~

a. ~~A For any~~ utility that makes its out-of-state records available at the utility’s office located in Florida or at another mutually agreed upon location in Florida within 10 working days from the Commission’s initial request. If 10 working days is not reasonable because of the complexity and nature of the issues involved or the volume and type of material requested, the Commission ~~will may~~ establish a different time frame for the utility to bring records into the state. For individual data requests made during an audit, the response time frame established in Rule 25-30.145, F.A.C., ~~will shall~~ control; or

b. ~~A For a~~ utility whose records are located within 50 miles of the Florida state line.

(2) In General. Each utility ~~must shall~~ furnish to the Commission ~~at such time and in such forms as the Commission may require,~~ the results of any required tests and summaries of any required records. The utility ~~must shall~~ also furnish the Commission with any information concerning the utility’s facilities or operation that the Commission ~~may~~ requests and requires for determining rates or judging the practices of the utility. All such data, unless otherwise specified, ~~must shall~~ be consistent with and reconcilable with the utility’s annual report to the Commission.

(3) Annual Reports: Filing Extensions. Each utility ~~must shall~~ file with the Commission annual reports on the applicable form forms in subsection (4) of this rule prescribed by the Commission. The obligation to file an annual report for any year ~~will shall~~ apply to any utility which is subject to this Commission’s jurisdiction as of December 31 of that year, whether or not the utility has actually applied for or been issued a certificate.

(a) The Commission ~~will shall~~, by January 15 of each year, ~~email a send one~~ blank copy of the appropriate annual report form to each utility company. A utility may request a hard copy of the forms in subsection (4) of this rule from the Commission’s Division of Accounting and Finance. The failure of a utility to receive a report form ~~will shall~~ not excuse the utility from its obligation to timely file the annual report. An original and two copies of the annual reports must shall be filed with the Commission, either by mail or by email, on or before March 31 for the preceding year ending December 31. Annual reports filed by email must be sent to AnnualReport@psc.state.fl.us. Annual reports are considered filed on the day they are postmarked, or received and logged in by Annual reports filed by mail must be sent to the Commission’s Division of Accounting and Finance in Tallahassee.

(b) ~~Annual An reports report are~~ is considered ~~on filed file~~ if ~~they are~~ it is properly addressed and emailed or mailed with sufficient postage, and postmarked, by no later than the due date. ~~For If an annual reports report~~ is sent by registered mail, the date of the registration is the postmark date. ~~The registration is evidence that the annual report was delivered.~~ ~~For If an annual reports report~~ is sent by certified mail and the receipt is postmarked by a postal employee, the date on the receipt is the postmark date. The postmark postmarked certified mail receipt is evidence that the an annual report return was delivered. However, if a utility's annual report is not actually received by the Commission's Division of Accounting and Finance in Tallahassee, that utility must resend it upon request, despite any prior presumption of delivery.

(c) A utility may file a written request for an extension of time to file its annual report with the Commission's Division of Accounting and Finance no later than March 31. One extension of 30 days will be automatically granted upon request. A request for a longer extension must be accompanied by a statement of good cause, such as financial hardship, severe illness, or significant weather events such as hurricanes, but good cause does not include reasons such as management oversight or vacation time, and must shall specify the date by which the report will be filed.

(4) Annual Reports; Contents. The appropriate annual report form required from each utility will shall be determined by using the same three classes of utilities used by the National Association of Regulatory Utility Commissioners for publishing its system of accounts: Class A (those having annual water or wastewater operating revenues of \$1,000,000 or more); Class B (those having annual water or wastewater revenues of \$200,000 or more, but less than \$1,000,000); Class C (those having annual water or wastewater revenues of less than \$200,000). The class to which a utility belongs will shall be determined by using the higher of the average of its annual water or wastewater operating revenues for each of the last three preceding years.

(a) Class A and B utilities must shall file the annual report on Commission Form PSC-1032 (5/22), PSC/AFD 3-W (12/99) entitled "Class A or B Water and/or Wastewater Utilities (Gross Revenues of \$200,000 and more),"; which is incorporated by reference into this rule and may be obtained from [insert hyperlink].

(b) Class C utilities must shall file the annual report on Commission Form PSC 1033 (5/22) PSC/AFD 6-W 12/99, entitled "Class C Water and/or Wastewater Utilities (Gross Revenues of less than \$200,000 each),"; which is ~~is~~ incorporated by reference into this rule and may be obtained from [insert hyperlink].

(c) No change.

(5) ~~Certification of Annual Reports.~~ As part of the annual report, each utility must shall verify certify the following in writing by the utility's chief executive officer and chief financial officer:

(a) through (d) No change.

(6) ~~Annual Reports, Penalty for Noncompliance.~~ A penalty shall be assessed against any utility that fails to file an annual report or an extension in the following manner:

(a) Failure to file an annual report or an extension on or before March 31;

(b) Failure to file a complete annual report;

(c) Failure to file an original and two copies of the annual report.

Any utility that fails to comply with this rule shall be subject to the penalties imposed herein unless the utility demonstrates good cause for the noncompliance. The Commission may, in its discretion, impose penalties for noncompliance that are greater or lesser than provided herein; such as in cases involving a flagrant disregard for the requirements of this rule or repeated violations of this rule. No final determination of noncompliance or assessment of penalty shall be made by the Commission except after notice and an opportunity to be heard, as provided by applicable law.

(d) Any utility which fails to pay a penalty within 30 days after its assessment by the Commission shall be subject to interest applied to the penalty up to and including the date of payment of the penalty. Such interest shall be compounded monthly, based on the 30 day commercial paper rate for high grade, unsecured notes sold through dealers by major corporations in multiples of \$1,000 as regularly published in the Wall Street Journal.

(6)(7) Delinquent Reports.

(a) Any utility that fails to file its annual report or extension on or before March 31, or within the time specified by any extension approved in writing by the Commission's Division of Accounting and Finance, will shall be subject to a penalty. The penalty will shall be based on the number of calendar days elapsed from March 31, or from an approved extended filing date, until the date of filing. The date of filing will shall be included in the days elapsed.

(b) The penalty for delinquent reports will shall accrue based on the utility's classification established

under subsection (4) of this rule, in the following manner for each day the report is delinquent:

1. \$25.00 per day for Class A utilities;
2. through 3. No change.

(c) If a utility does not timely file its annual report, in addition to the penalty determined by subsection (6)(b) of this rule, interest on the penalty will also be assessed from the date the annual report was due, up to and including the date the penalty is paid. Such interest is based on the AA non-financial 30-day commercial paper rate published by the Board of Governors of the Federal Reserve System on its website. Interest will be compounded monthly.

(7)(8) Incomplete Reports.

(a) The Commission's Division of Accounting and Finance will shall provide written notification to a utility if its report does not contain information required by subsection (4) of this rule. The utility must shall file the missing information no later than 30 days after the date on the face of the notification. If the utility fails to file the information within that period, the report will be deemed delinquent and the utility will shall be subject to a penalty as provided under paragraphs (6)(7)(a) and (b) of this rule, except that the penalty will shall be based on the number of days elapsed from the date the information is due to the date it is actually filed. The date of filing will shall be included in the elapsed days.

(b) No change.

1. Form PSC 1032 (5/22) PSC/AFD 3-W (Rev. 12/99) for Class A and B utilities;
2. Form PSC 1033 (5/22) PSC/AFD 6-W (Rev. 12/99) for Class C utilities.

(c) An incomplete report will remain incomplete until the missing information is filed with the Commission's Division of Accounting and Finance on the appropriate Commission form.

(8)(9) Incorrect Filing. If a utility files an incorrect annual report it will shall be considered delinquent and subject to a penalty on the same basis as a utility that fails to timely file an annual report. The classification determining the applicable penalty, as prescribed by paragraphs (6)(7)(a) and (b) of this rule, will shall be determined by the latest annual revenue figures available for the utility. The failure of a utility to receive a report form for the correct class of utility will shall not excuse the utility from its obligation to timely file the annual report for the correct class of utility.

(10) Insufficient Copies. A utility that fails to file one original and two copies of its annual report shall be subject to a penalty of one dollar per page per missing copy. The Commission will provide the utility with written notice that insufficient copies were received. A penalty may be avoided if, within 20 days after the date of the notice, the utility files the missing copies or requests that the Commission copy its report for it and remits the appropriate fee for the copying.

(11) Other Penalties. The penalties that may be assessed against a utility for failure to file an annual report in compliance with the foregoing shall be separate and distinct from penalties that may be imposed for other violations of the requirements of the Commission.

*Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.121(1)(e), (g), (i), (k), 367.156(1), 367.161 FS. History—New 9-12-74, Amended 1-18-83, 2-25-85, 10-27-85, Formerly 25-10.25, 25-10.025, Amended 11-10-86, 12-22-86, 3-11-91, 11-13-95, 5-1-96, 12-14-99.*

#### **25-30.420 Establishment of Price Index, Adjustment of Rates; Requirement of Bond; Filings After Adjustment; Notice to Customers.**

(1) On or before March 31 of each year, the Commission will shall establish a price increase or decrease index as required by Section 367.081(4)(a), F.S. The Commission's Division of Accounting and Finance Office of Commission Clerk will shall email mail each regulated water and wastewater utility a copy of the proposed agency action order establishing the index for the year and a copy of Form PSC 1022 (5/22 9/18), entitled "Price Index Application," which is incorporated into this rule by reference and may be obtained from [hyperlink] <http://www.flrules.org/Gateway/reference.asp?No=Ref-11101> and the Commission's Division of Accounting and Finance. Utilities may request a hard copy of the index application from the Commission's Division of Accounting and Finance. Applications for the newly established price index will be accepted from April 1 of the year the index is established through March 31 of the following year.

(a) The index will shall be applied to all operation and maintenance expenses, except for amortization of rate case expense, costs subject to pass-through adjustments pursuant to Section 367.081(4)(b), F.S., and adjustments or disallowances made in a utility's most recent rate proceeding.

(b) No change.

(2) Any utility seeking to increase or decrease its rates based upon the application of the index

established pursuant to subsection (1) and as authorized by Section 367.081(4)(a), F.S., ~~must~~ shall file a notice of intention and the materials listed in paragraphs (a) through (i) below with the Commission's Division of Accounting and Finance either by mail at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399 or by email at Applications@psc.state.fl.us at least 60 days prior to the effective date of the increase or decrease. Form PSC 1022 (5/22 9/18) is an example application that may be completed by the applicant to comply with this subsection. The adjustment in rates ~~will~~ shall take effect on the date specified in the notice of intention unless the Commission finds that the notice of intention or accompanying materials do not comply with Section 367.081(4), F.S. or this rule. The notice ~~must~~ shall be accompanied by:

(a) through (i) No change.

(3) If the Commission, upon its own motion, implements an increase or decrease in the rates of a utility based upon the application of the index established pursuant to subsection (1) and as authorized by Section 367.081(4)(a), F.S., the Commission will require a utility to file the information required in subsection (2).

(4) Upon a finding of good cause, the Commission ~~will~~ shall require that a rate increase pursuant to Section 367.081(4)(a), F.S., be implemented under a bond or corporate undertaking in the same manner as interim rates. For purposes of this subsection, "good cause" ~~will~~ shall include:

(a) through (b) No change.

(5) No change.

(6) ~~A No utility is prohibited shall from filing file~~ a notice of intention pursuant to this rule unless the utility has filed with the Commission an annual report as required by subsection 25-30.110(3), F.A.C., for the test year specified in the order establishing the index for the year.

(7) ~~A No utility is prohibited shall from implementing implement~~ a rate increase pursuant to this rule within one year of the official date that it filed a rate proceeding, unless the rate proceeding has been completed or terminated.

*Rulemaking Authority 350.127(2), 367.081(4)(a), 367.121(1)(c), (f) FS. Law Implemented 367.081(4), 367.121(1)(c), (g) FS. History—New 4-5-81, Amended 9-16-82, Formerly 25-10.185, Amended 11-10-86, 6-5-91, 4-18-99, 12-11-03, 9-3-19, \_\_\_\_\_.*

NAME OF PERSON ORIGINATING PROPOSED RULE: Amber Norris

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2022

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Rule 25-30.110: Volume 48, Number 162, August 19, 2022; Rule 25-30.420: Vol. 48, Number 92, May 11, 2022.

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**Notices Submitted to ACR**

ID	Rule No./ Organization	Rule Title	Section	Issue	Date
<a href="#">26628748</a>	25-30.110,...	Records and Reports; Annual Reports, Establishment of Price Index, Adjustment of Rates; Requirement of Bond; Filings After Adjustment; Notice to Customers	Proposed	12/14/2022 Vol. 48/241	12/13/2022

**Notices Confirmed by ACR**

ID	Rule No./ Organization	Rule Title	Section	Issue	Date
None					

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