

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: July 23, 2026

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Augspurger, Bloom) *SMC*
Division of Economics (Hudson) *EDD*

RE: Docket No. 20260090-WS – Petition for declaratory statement, by Rekisha Codogan.

AGENDA: 08/04/26 – Regular Agenda – Decision on Declaratory Statement – Participation is at the Discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: La Rosa

CRITICAL DATES: 09/08/26 (Deadline for final order on the petition for declaratory statement.)

SPECIAL INSTRUCTIONS: None

Case Background

On June 10, 2026, Rekisha Codogan (Petitioner) filed a petition for declaratory statement (Petition) related to her dispute with Orange County Utilities. Orange County Utilities provides water and wastewater services to the Petitioner's property.

More broadly, the Petitioner is asking the Commission to determine if Section 120.565, Florida Statutes (F.S.), Rule 28-105.001, Florida Administrative Code (F.A.C.), Rule 28-105.002, F.A.C., Section 153.83, F.S., Chapter 153, F.S., and any applicable Orange County ordinance, resolution, utility service policy, tariff, written customer-service procedure, or order governing the billing of residential water and wastewater service is applicable to Petitioner's particular residential account and circumstances.

Law Governing Petitions for Declaratory Statement

Section 120.565, F.S., sets forth the necessary elements of a petition for declaratory statement. This section provides:

- (1) Any substantially affected person may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances.
- (2) The petition seeking a declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.

Rule 28-105.001, F.A.C., states the purpose of a declaratory statement:

A declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory statement may be used to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person.

If a petitioner meets the filing requirements provided by Rule 28-105.002, F.A.C., an agency must issue a declaratory statement. Rule 28-105.003, F.A.C., provides the requirements for how agencies must dispose of declaratory statements and states that an agency may rely on the statements of fact set out in a petition without taking any position with regard to the validity of the facts. A declaratory statement enables members of the public to resolve ambiguities of law and obtain definitive, binding advice as to the applicability of agency law to a particular set of facts.

Procedural Matters

Pursuant to Section 120.565, F.S., and Rule 28-105.0024, F.A.C., a Notice of Declaratory Statement was published in the June 15, 2026, edition of the Florida Administrative Register to inform substantially affected persons of the Petition.

This recommendation addresses whether the Commission should grant the Petition. Pursuant to Section 120.565(3), F.S., a final order on a request for a declaratory statement must be issued within 90 days of the filing of such petition. As such, the statutory deadline to issue a final order on the Petition is September 8, 2026.

Discussion of Issues

Issue 1: Should the Commission grant the Petition for Declaratory Statement?

Recommendation: No. The Commission should deny the petition for declaratory statement as the Commission does not have jurisdiction to issue the declaratory statement requested under Section 120.565, F.S. (Augsburger, Bloom)

Staff Analysis: The Commission does not have jurisdiction over Orange County Utilities, does not regulate Orange County Utilities, and is therefore unable to issue a declaratory statement on legal matters which involve the utility.

As already discussed, Section 120.565, F.S., allows substantially affected persons to seek a declaratory statement regarding an agency's opinion on the applicability of a statute, agency rule, or agency order. Rule 28-105.001, F.A.C., a rule that implements Section 120.565, F.S., further clarifies that "a declaratory statement is a means for resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority." Importantly, this rule implies that an agency may only issue a declaratory statement for guidance on statutes, rules, or orders specifically under the agency's authority.

Chapter 367, F.S., governs whether, and to what extent, the Commission's statutes, rules, and regulatory authority apply to a particular water or wastewater utility. Section 367.021(12), F.S., provides that "[u]tility" refers to a "waste or wastewater utility . . . except as provided in s. 367.022." Section 367.022, F.S., lists certain entities that are not subject to regulation by the Commission. Water and wastewater utilities specifically exempt from Commission regulation include "systems owned, operated, managed, or controlled by governmental authorities."¹ Consequently, the Commission lacks jurisdictional authority and possesses no regulatory oversight over county government actions concerning their own water and wastewater utilities. Nor does the Commission have jurisdictional authority or regulatory oversight over county government operated water and sewer systems' service rules, ordinances, orders, tariffs, policies, or written customer-service procedures.

Orange County Utilities is a water and wastewater system owned, operated, and managed by the Orange County government. Thus, the Commission does not have the regulatory authority to issue any guidance on Orange County ordinances and resolutions, or Orange County Utility service rules, ordinances, orders, tariffs, policies, or written customer-service procedures. Furthermore, the Commission cannot provide any interpretation on the applicability of Chapter 153, F.S., to Orange County Utilities, as the Commission does not implement nor have authority to act pursuant to the statute.

Based on the above, staff recommends that the Commission deny the Petition.

¹ Section 367.022(2), F.S

Date: July 23, 2026

Issue 2: Should this docket be closed?

Recommendation: Yes. If the Commission votes to either grant or deny the Petition for Declaratory Statement, a final order will be issued, and the docket should be closed. (Augsburger)

Staff Analysis: Whether the Commission grants or denies the petition, a final order will be issued. Upon issuance of the final order, the docket should be closed.