

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:** June 24, 2019  
**TO:** Adam J. Teitzman, Commission Clerk, Office of Commission Clerk  
**FROM:** Kathryn G.W. Cowdery, Senior Attorney, Office of the General Counsel   
**RE:** Docket No. 20190000-OT

---

Please file the attached materials in the docket file listed above.

Thank you.

Attachment

RECEIVED-FPSC  
2019 JUN 24 AM 9:56  
COMMISSION  
CLERK

## Kathryn Cowdery

---

**From:** Martin S. Friedman <MFriedman@deanmead.com>  
**Sent:** Monday, June 24, 2019 9:34 AM  
**To:** Fall-Fry.Mireille; Kathryn Cowdery; Troy Rendell; mike@fus1llc.com  
**Cc:** David, Tad; JR Kelly  
**Subject:** RE: 20190000 LARI (25-30.457) Rule Development, Update

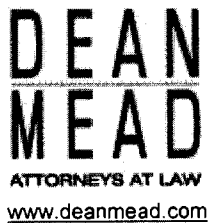
Thanks Mireille,

My further comments are:

(6) – This is still a bright-line requirement with no PSC discretion. I believe the original “whether” language should be unchanged to allow for that discretion. This is similar to the consideration by the Commission of whether to accept a limited proceeding for a larger utility pursuant to Rule 25030.445 [see (6)]. This is a “deal-killer” as far as I am concerned.

(15) – This requirement should only apply in a (14) situation, it being placed in a paragraph separate from (14) may lead someone to believe it applies to other situations. It should include a preface indicating its limited application

Marty



**Martin S Friedman**  
Attorney at Law  
[MFriedman@deanmead.com](mailto:MFriedman@deanmead.com)

D: 407-310-2077

Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, P.A.  
420 S. Orange Avenue, Suite 700, Orlando, FL 32801  
Orlando | Fort Pierce | Tallahassee | Viera/Melbourne



---

**PRIVILEGED INFORMATION DISCLAIMER:** This email is intended solely for the use of the individual to whom it is addressed and may contain information that is privileged, confidential or otherwise exempt from disclosure under applicable law. If the reader of this email is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please delete this email, destroy any hard copies thereof, and notify us immediately by telephone. Thank you.

---

**From:** Fall-Fry.Mireille <[Fall-Fry.Mireille@leg.state.fl.us](mailto:Fall-Fry.Mireille@leg.state.fl.us)>  
**Sent:** Monday, June 24, 2019 9:13 AM  
**To:** Kathryn Cowdery <[kcowdery@PSC.STATE.FL.US](mailto:kcowdery@PSC.STATE.FL.US)>; Troy Rendell <[trendell@uswatercorp.net](mailto:trendell@uswatercorp.net)>; Martin S. Friedman <[MFriedman@deanmead.com](mailto:MFriedman@deanmead.com)>; [mike@fus1llc.com](mailto:mike@fus1llc.com)

Cc: David, Tad <DAVID.TAD@leg.state.fl.us>; Kelly, JR <KELLY.JR@leg.state.fl.us>

Subject: 20190000 LARI (25-30.457) Rule Development, Update

Good Morning All,

Attached please find an update to OPC's proposed revisions to rule 25-30.457 that we made after discussions with Troy Rendell and in consideration of comments from Marty Friedman. Additionally, we have included two additions to the rule that Troy suggested and OPC does not have concerns with, they are new paragraphs (14) and (15).

A. Mireille Fall-Fry  
Office of Public Counsel  
111 W. Madison St., Rm 812  
Tallahassee, FL 32399  
(850) 717-0336  
Fall-Fry.Mireille@Leg.State.Fl.US

### 25-30.457 Limited Alternative Rate Increase.

(1) As an alternative to a staff assisted rate case as described in rule 25-30.455, F.A.C., or to staff assistance in alternative rate setting as described in rule 25-30.456, F.A.C., water utilities whose total gross annual operating revenues are \$300,000 or less for water service and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for wastewater service may petition the Commission for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service by filing with the Office of Commission Clerk the information required by subsections (7), (8) and (9) of this rule.

(2) Within 30 days of receipt of the completed petition, the Commission will evaluate the petition and determine the petitioner's eligibility for a limited alternative rate increase.

(3) The Commission will notify the petitioner in writing as to whether the petition is accepted or denied. If the petition is accepted, staff assistance in alternative rate setting will be initiated. If the petition is denied, the notification of petition denial will state the deficiencies in the petition with reference to the criteria set out in subsection (5) of this rule.

(4) The official date of filing will be 30 days after the date of the written notification to the petitioner of the Commission's acceptance of the petition.

(5) The petition will be approved, denied, or approved with modifications within 90 days from the official filing date as established by subsection (4) of this rule.

(6) To be eligible for Commission consideration, in determining whether to grant or deny the petition must show, the Commission will consider the following criteria:

(a) ~~Whether~~ The petitioner qualifies for staff assistance pursuant to subsection (1) of this rule;

(b) ~~Whether~~ The petitioner's books and records are organized consistent with rule 25-30.110, F.A.C., so as to allow Commission personnel to verify costs and other relevant factors within the 30-day time frame set out in this rule;

(c) ~~Whether~~ The petitioner has filed all annual reports with the Commission since the utility was last granted a rate case increase;

(d) ~~Whether~~ The petitioner has paid all applicable regulatory assessment fees;

(e) ~~Whether~~ The petitioner has at least one year of experience in utility operation;

(f) ~~Whether the petitioner has filed additional relevant information in support of eligibility together with reasons why the information should be considered;~~

(g) Whether the utility was a final order granting the utility a rate case increase has not been entered within the 2-year period prior to the receipt of the petition under review;

(h) Whether a final order in a rate proceeding that established the utility's rate base, capital structure, annual operating expenses and revenues has been issued for the utility within the 7-year period prior to the receipt of the petition under review;

(i) The petitioner is able to provide information sufficient to justify the rate increase requested. Justification as to why the rate increase is needed.

(7) The petitioner may file additional information if such information is accompanied by an explanation of the reason(s) the information is necessary to the consideration of the petition.

~~(8)~~ (6) The Commission will deny the petition if the petitioner does not remit the filing fee, as provided by paragraph 25-30.020(2)(f), F.A.C., within 30 days after official acceptance of the petition.

~~(9)~~ (7) Each petitioner for limited alternative rate increase shall ~~must~~ provide the following general information to the Commission:

(a) The name of the utility as it appears on the utility's certificate and the address of the utility's principal place of business; and,

(b) The type of business organization under which the utility's operations are conducted:

1. If the petitioner is a corporation, the date of incorporation and the names and addresses of all persons who own five percent or more of the petitioner's stock; or

2. If the petitioner is not a corporation, the names and addresses of the owners of the business.

~~(10)~~ (8) The Petitioner shall ~~must~~ provide a schedule showing:

(a) Annualized revenues by customer class and meter size for the most recent 12-month period using the rates in effect at the time the utility files its petition; ~~and,~~

(b) Current and proposed rates for all classes of customers; and,

(c) The extent to which petitioner's costs have increased or will increase, or some other objective basis for the requested rate

increase.

~~(119)~~ The petitioner ~~shall~~ must provide a statement that the figures and calculations upon which the change in rates is based are accurate, ~~and that the change will not cause the utility to exceed its last authorized rate of return on equity, and include the projected rate of return on equity that would result if the petition is granted.~~

~~(1210)~~ A financial or engineering audit of the utility's financial or engineering books and records ~~shall~~ may not be required in conjunction with the petition under review.

~~(11)~~ The petition ~~will be approved, denied, or approved with modifications within 90 days from the official filing date as established in subsection (4) of this rule.~~

~~(1312)~~ Any revenue increase granted under the provisions of this rule shall be ~~held~~ subject to refund with interest in accordance with rule 25-30.360, F.A.C., for a period of 15 months, if the utility is determined to be overearning due to the implementation of this rate increase for a period of 15 months after the filing of the utility's annual report required by rule 25-30.110, F.A.C., for the year the adjustment in rates was implemented.

~~(14)~~ Upon a finding of good cause, the Commission may require that any revenue increase granted under the provisions of this rule, be implemented under a bond or corporate undertaking in the same manner as interim rates. For purposes of this subsection, "good cause" shall include:

(a) Inadequate service by the utility;

(b) Inadequate record-keeping by the utility such that the Commission is unable to determine whether the utility is entitled to implement the rate increase or decrease under this rule.

~~(15)~~ The company shall provide quarterly reports indicating the total monthly and total accrued amount of revenues as of the end of the preceding quarter. The report shall also indicate the status of whatever security is being used to guarantee repayment of the money. This requirement will cease to be required once the Commission has concluded its earning surveillance.

~~(161413)~~ To insure overearnings will not occur due to the implementation of this rate increase, the Commission will conduct an earnings review of the utility's annual report to determine any potential overearnings for the year the adjustment in rates was implemented.

~~(171514)~~ If, within 15 months after the filing of a utility's annual report the Commission finds that the utility exceeded the range of its last authorized rate of return on equity after an adjustment in rates, as authorized by this rule, was implemented within the year for which the report was filed, such overearnings, up to the amount ~~held~~ subject to refund, with interest, ~~shall~~ must be ~~disposed of for the benefit of~~ returned to the customers within 12 months, unless the Commission approves a separate, specific plan for the funds to otherwise be expended for the direct benefit of the customers.

~~(181615)~~ In the event of a protest of the Proposed Agency Action Order pursuant to rule 28-106.111, F.A.C., by a substantially affected person other than the utility, unless the Proposed Agency Action Order proposes a rate reduction, the utility may implement the rates established in the Proposed Agency Action Order on a temporary basis subject to refund with interest in accordance with rule 25-30.360, F.A.C., upon the utility filing a staff assisted rate case application pursuant to rule 25-30.455, F.A.C., within 21 days of the date the protest is filed.

~~(191716)~~ In the event of a protest, the limit on the maximum increase provided in subsection (1) of this rule ~~shall~~ will no longer apply, and the resulting proceeding will be governed by s. 367.081, F.S. and the law applicable thereto.

~~(201817)~~ If the utility fails to file a staff assisted rate case application within 21 days in the event of a protest, the petition for a limited alternative rate increase will be deemed withdrawn.