

STATE OF FLORIDA

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OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

July 12, 2019

Mr. Chris Bailey
Rules Ombudsman in
The Executive Office of the Governor
Reg.Reform@eog.myflorida.com\

SENT VIA E-MAIL

Re: Docket No. 20190055-WS, Rule 25-30.420, F.A.C., Establishment of Price Index, Adjustment of Rates; Requirement of Bond; Filings After Adjustment; Notice to Customers.

Dear Mr. Bailey:

The Florida Public Service Commission proposed the above-listed rule at their regular agenda conference on July 9, 2019. The Commission has determined that this rule will affect small businesses. Accordingly, pursuant to Section 120.54(3)(b)2.b.(I), Florida Statutes, enclosed is a copy of the Florida Administrative Register (FAR) notice of the proposed rules, which was published in the July 11, 2019 edition of the FAR. Also enclosed is a copy of the statement of estimated regulatory costs (SERC). The SERC concluded that the proposed rule amendments will not have an adverse effect on small business. Pursuant to your instructions, we have filled out and included a copy of the OFARR rulemaking notification form.

If there are any questions with respect to these rules, please contact me at (850) 413-6856 or ladavis@psc.state.fl.us.

Sincerely,

Lauren Davis
Senior Attorney

Enclosures
cc: Office of the Commission Clerk

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2019 JUL 12 PM 2:03
COMMISSION
CLERK

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

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

PURPOSE AND EFFECT: To amend the rule to reference the updated example form that all water and wastewater utilities may use when applying for index or pass-through rate adjustments, to include the option for filing electronically by e-mail, and to update and clarify the rule.

Docket No. 20190055-WS

SUMMARY: Paragraph (1) of the rule has been amended to reference the updated example form that is sent to all water and waste water utilities to apply for the price index or pass-through rate adjustments. Paragraph (2) has been amended to include the address of the Florida Public Service Commission and the e-mail by which the utilities may submit their application. Paragraph (2) has been amended to remove the requirement that the utilities must submit 5 copies of the application when filing for the index or pass-through rate adjustments. Paragraph (4) has been amended to replace the word "may" with "shall." Other amendments have been made to update and clarify the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that this 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 rule. A SERC has been prepared by the agency. The SERC examined the factors required by Section 120.541, F.S., and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business and that there would likely be transactional cost savings to the individual and entities, including government entities, required to comply with the rule.

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

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(1)(c), (f), FS.

LAW IMPLEMENTED: 367.081(4), 367.121(1)(c), (g), 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: Lauren Davis, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6856, ladavis@psc.state.fl.us.

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

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 shall, on or before March 31 of each year,~~ establish a price increase or decrease index as required by Section 367.081(4)(a), F.S. The Office of Commission Clerk shall 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 the ~~application.~~ Form **PSC 1022 (9/18) PSC/AFD-15 (4/99)**, entitled "Index Application", which is incorporated into this rule by reference and may be obtained from ~~[Dept of State hyperlink]~~ and 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) through (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., shall file an original and five copies of 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 e-mail at Applications@psc.state.fl.us at least 60 days prior to the effective date of the increase or decrease. Form PSC 1022 (9/18) is an example application that may be completed by the applicant to comply with this subsection. The adjustment in rates 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 law, or the rules or orders of the Commission. The notice shall be accompanied by:

(a) through (f) No change.

(g) The utility's Department of Environmental Protection Public Water System identification number and Wastewater Treatment Plant Operating Permit number;

(h) A statement that the utility does not have any active written complaints, corrective orders, consent orders, or outstanding citations with the Department of Environmental Protection (DEP) or the County Health Department(s) or that the utility does have active written complaints, corrective orders, consent orders, or outstanding citations with the Department of Environmental Protection or the County Health Department(s);

(i) A copy of any active written complaints, corrective orders, consent orders, or outstanding citations with the Department of Environmental Protection (DEP) or the County Health Department(s).

(3) No change.

(4) Upon a finding of good cause, the Commission shall may 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" shall include:

(a) through (b) No change.

(5) No change.

(6) No utility shall file a notice of intention pursuant to this rule unless the utility has filed on-file 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) No change.

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,

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: July 9, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 44, Number 184, September 20, 2018.

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: November 30, 2018

TO: Lauren Davis, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst II, Division of Economics *S.K.G.*

RE: Statement of Estimated Regulatory Costs for Proposed Adoption of Rule 25-30.420, Florida Administrative Code (F.A.C.), Establishment of Price Index, Adjustment of Rates; Requirement of Bond; Filings After Adjustment; Notice to Customers

Rule 25-30.420, F.A.C., allows the Commission to establish a price increase or decrease index for all water and wastewater utilities that are regulated by the Commission. The rule references Form PSC/AFD 15 (4/99), titled "Index Application," which is available to all water and wastewater utilities to aid in applying for index or pass-through rate adjustments.

The rule is being revised to reference the updated revised date of September 2018 on Form PSC 1022 (9/18). The form has been also updated to include explanatory notes and instructions that reflect the expansion of eligible pass-through costs permitted by a 2016 statutory change in Section 367.081, F.S.

The attached Statement of Estimated Regulatory Costs (SERC) addresses the considerations required pursuant to Section 120.541, Florida Statutes (F.S.). No rule development workshop was held regarding this rule revision. No regulatory alternatives were submitted pursuant to Section 120.541(1)(a), F.S. None of the impacts/cost criteria established in Section 120.541(2)(a); F.S. will be exceeded as a result of the proposed rule revisions. The rule modifications will only affect utilities requesting an index or pass-through rate increase or decrease. There are no new costs to the utility as a result of the modifications to this rule.

cc: SERC File

**FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rule 25-30.420, 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 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: A summary of the recommended rule revisions is included in the attached memorandum to Counsel. 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 reflect and updated revision date of form PSC/AFD 15 (4/99), which is titled "Index Application." The updated revised date is (12/17). The modified rule 25-30.420, F.A.C. outlines the process by which water and wastewater utilities are able to adjust rates based on current specific expenses without applying for a rate case. There are no new costs to the utility as a result of the modification of this rule.

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.

The potentially affected entities include 132 investor-owned water and wastewater utilities that serve approximately 178,041 customers in Florida. The proposed revisions will also be applicable to water and wastewater utilities which may come under the jurisdiction of the Commission in the future.

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

The 132 investor-owned water and wastewater utilities and customers of those utilities are likely to be affected by this rule.

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.

Office of Fiscal Accountability and Regulatory Reform
Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

To: Chris Bailey, Director

Submitted By: Lauren Davis, Senior Attorney
Florida Public Service Commission
850.413.6856

Re: Rulemaking Notification for:

Rule Number	Rule Title
25-30.420	Establishment of Price Index, Adjustment of Rates; Requirement of Bond; Filings After Adjustment; Notice to Customers

List EACH rule singly. Add lines as needed.

Date: [Date request sent to OFARR]

Date of anticipated publication:

Does this rule qualify for Rules Ombudsman review in accordance with section 120.54(3)(b), F.S.?

Yes No

Please complete this form when submitting rulemaking notification to the Office of Fiscal Accountability and Regulatory Reform (OFARR) pursuant to Executive Order 11-211. **If any information or documents are missing, the notification will be returned without review. OFARR will indicate what is missing, and the completed notification must be resubmitted.**

1. Proposed Rulemaking Activity:

Notice of Development of Rulemaking – Attach the proposed Notice. If no text is available, give a detailed explanation of the rulemaking, including why it is necessary.

Notice of Proposed Rule – Attach the proposed Notice, “Is a SERC Required” Checklist, and SERC (if required), all materials incorporated by reference, and all forms referenced or required by the rule.

Notice of Emergency Rule – Attach the proposed Notice. Explain fully why emergency rulemaking is appropriate.

Notice of Change – Attach the proposed Notice. Be sure the text is coded correctly according to Rule 1B-30.003(5)(f), F.A.C. Explain why a change is required. Attach any correspondence from JAPC or the public. If no documents exist, summarize any public comment the agency has received or public hearings/workshops the agency has held.

Notice of Withdrawal – Attach the proposed Notice. Explain why it is necessary to withdraw the rulemaking. Include any JAPC correspondence.

Other – Attach the proposed Notice. Include detailed information about the rulemaking.

Notices should be coded according to Rule 1B-30.003(5)(f), F.A.C.

Office of Fiscal Accountability and Regulatory Reform Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

2. Is this rulemaking included in the agency's Annual Regulatory Plan (ARP)? Yes

3. For each rule:

If the rule decreases regulation, explain in detail how it alleviates unnecessary, disproportionate, or adverse effects to business. You should address all relevant considerations, including: restriction on entry into a profession; effect on availability of services to public; effect on job retention; restriction on employment seekers; imposition of burdensome costs; cost-effectiveness vs. economic impact of rule.

If the rule increases regulation, explain in detail what statute or statutes are being implemented and why the rule is necessary to implement the statutory language.

Rule Number	Detailed Explanation
N/A	

List EACH rule singly. Add lines as needed.

4. Has the agency received any public comment about this rulemaking, since the last rulemaking notification? No

If yes, please summarize the comment and the agency's position regarding the comment (i.e. has made or intends to make changes based on the comment, disagrees with the comment, etc.) and attach any documents.

5. Has the agency received any lower cost regulatory alternatives (LCRA)? No

If yes, describe in detail what action the agency took in response to the LCRA.

6. Has the agency received any comment from JAPC, since the last rulemaking notification? No

If yes, please summarize the comment and attach any documents.

Julie Phillips

From: Lauren Davis
Sent: Friday, July 12, 2019 1:31 PM
To: 'Reg.Reform@eog.myflorida.com'
Cc: Julie Phillips
Subject: To the Rules Ombudsman
Attachments: Rule No. 25.30.420 small busisess pkt_.pdf

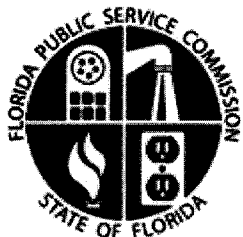
Dear Mr. Bailey,

Please see the attached documents regarding Rule No. 25-30.420, F.A.C.

Thank you,

Lauren Davis
Senior Attorney
Appellate Division
General Counsel, Office 301G
Phone: 850.413.6856
Fax: 850.413.6857
LaDavis@psc.state.fl.us

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850



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