

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:** November 5, 2019

**TO:** Adam J. Teitzman, Commission Clerk, Office of Commission Clerk

**FROM:** Adria E. Harper, Office of the General Counsel *CEH*

**RE:** Docket No. 20190152-WS; Rules 25-30.350, F.A.C., Underbillings and Overbillings for Water and Wastewater Service and 25-30.360, F.A.C., Refunds

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Please file the attached rule certification packet materials for Rules 25-30.350, F.A.C., Underbillings and Overbillings for Water and Wastewater Service and 25-30.360, F.A.C., Refunds, F.A.C., in the docket file listed above.

Thank you.

Attachment

RECEIVED-FPSC

2019 NOV -5 PM 3:54

COMMISSION  
CLERK

COMMISSIONERS:  
ART GRAHAM, CHAIRMAN  
JULIE I. BROWN  
DONALD J. POLMANN  
GARY F. CLARK  
ANDREW GILES FAY

STATE OF FLORIDA



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

# Public Service Commission

November 5, 2019

Mr. Ernest Reddick  
Florida Department of State  
Administrative Code and Register Section  
Room 701, the Capitol  
Tallahassee, FL 32399-0250

VIA HAND DELIVERY

**Re: Rule Certification Packet for Rule 25-30.350, F.A.C., Underbillings and Overbillings for Water and Wastewater Service and Rule 25-30.360, F.A.C., Refunds**

Dear Mr. Reddick:

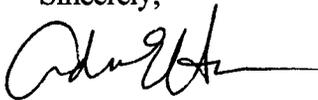
Enclosed for filing is a complete rule certification packet for Rule 25-30.350, F.A.C., and Rule 25-30.360, F.A.C., consisting of:

- (1) One compact disc containing the coded text of the rules;
- (2) There are no materials incorporated by reference into these rules.
- (3) One original and two copies of the signed rule certification form;
- (4) One original and two copies of the signed designation of minor violation rule certification form required by Rule 1-1.010, F.A.C.;
- (5) One original and two copies of the coded text of the rules, including the legal citations and history notes;
- (6) One original and two copies of the summary of the rules;
- (7) One original and two copies of the detailed written statement of the facts and circumstances justifying the rules; and
- (8) One original and two copies of the summary of the hearings held on the rules.

FILED  
2019 NOV -5 PM 12:13  
TALLAHASSEE, FLORIDA

Please let me know if you have any questions. The contact name and information for this rule are Adria Harper, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6082, aharper@psc.state.fl.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adria Harper', with a long horizontal flourish extending to the right.

Adria Harper  
Senior Attorney

Enclosures

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION  
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

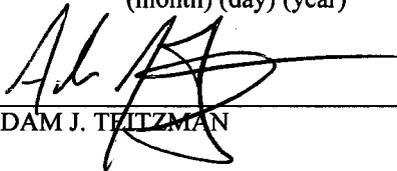
Rule Nos.

25-30.350

25-30.360

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_  
(month) (day) (year)

  
\_\_\_\_\_  
ADAM J. TRITZMAN

Commission Clerk

\_\_\_\_\_  
Title

\_\_\_\_\_  
Number of Pages Certified

**DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION  
CERTIFICATION**

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule No(s).

25-30.350

25-30.360

Rules covered by this certification:

Rule No(s).

25-30.350

25-30.360



\_\_\_\_\_  
Signature of Agency Head

Chairman, Florida Public Service Commission  
Title

**25-30.350 Underbillings and Overbillings for Water and Wastewater Service.**

(1) A utility may not backbill customers for any period greater than 12 months for any undercharge in billing which is the result of the utility's mistake.

(a) The utility shall allow the customer to pay for the unbilled service over the same time period as the time period during which the underbilling occurred or some other mutually agreeable time period. The utility shall not recover in a ratemaking proceeding, any lost revenues which inure to the utility's detriment on account of this provision.

(b) The revised bill shall be calculated on a monthly basis, assuming uniform consumption during the month(s) subject to underbilling, based on the individual customer's average usage for the time period covered by the underbilling. The monthly bills shall be recalculated by applying the tariff rates in effect for that time period. The customer shall be responsible for the difference between the amount originally billed and the recalculated bill. All calculations used to arrive at the rebilled amount shall be made available to the customer upon the customer's request.

(2) In the event of an overbilling, the utility shall refund the overcharge to the customer based on available records. If the commencement date of the overbilling cannot be determined, then an estimate of the overbilling shall be made based on the customer's past consumption.

(3) In the event of an overbilling, the customer may elect to receive the refund as a one-time disbursement, if the refund is in excess of \$20, or as a credit to future billings. Refunds for overbillings shall be disbursed pursuant to Rule 25-30.360, F.A.C.

*Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.091, 367.121 FS. History—New 11-10-86, Amended 6-17-13, \_\_\_\_\_.*

### **25-30.360 Refunds.**

(1) Applicability. ~~With the exception of deposit refunds, All refunds under this chapter ordered by the Commission shall be made in accordance with the provisions of this rule, unless another rule in this chapter specifically sets forth the procedure for making refunds otherwise ordered by the Commission. The calculation for overbillings shall be pursuant to Rule 25-30.350, F.A.C., and disbursed pursuant to this rule.~~

(2) Timing of Refunds. Refunds must be made within 90 days of the Commission's order unless a different time frame is prescribed by the Commission. A timely motion for reconsideration temporarily stays the refund, pending the final order on the motion for reconsideration. In the event of a stay pending reconsideration, the timing of the refund shall commence from the date of the order disposing of any motion for reconsideration. This rule does not authorize any motion for reconsideration not otherwise authorized by Chapter 25-22, F.A.C.

(3) Basis of Refund. Where the refund is the result of a specific rate change, including interim rate increases, and the refund can be computed on a per customer basis, that will be the basis of the refund. However, where the refund is not related to specific rate changes, such as a refund for overearnings, the refund shall be made to customers of record as of a date specified by the Commission. In such case, refunds shall be made on the basis of usage. Per customer refund refers to a refund to every customer receiving service during the refund period. Customer of record refund refers to a refund to every customer receiving service as of a date specified by the Commission.

#### **(4) Interest.**

(a) In the case of refunds which the Commission orders to be made with interest, the average monthly interest rate until refund is posted to the customer's account shall be 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.

(b) This average monthly interest rate shall be calculated for each month of the refund period:

1. By adding the published interest rate in effect for the last business day of the month prior to each month the refund period and the published rate in effect for the last business day of each month of the refund period divided by 24 to obtain the average monthly interest rate;

2. The average monthly interest rate for the month prior to distribution shall be the same as the last calculated average monthly interest rate.

(c) The average monthly interest rate shall be applied to the sum of the previous month's ending balance (including monthly interest accruals) and the current month's ending balance divided by 2 to accomplish a compounding effect.

(d) Interest Multiplier. When the refund is computed for each customer, an interest multiplier may be applied against the amount of each customer's refund in lieu of a monthly calculation of the interest for each customer. The interest multiplier shall be calculated by dividing the total amount refundable to all customers, including interest, by the total amount of the refund, excluding interest. For the purpose of calculating the interest multiplier, the utility may, upon approval by the Commission, estimate the monthly refundable amount.

(e) Commission staff shall provide applicable interest rate figures and assistance in calculations under this Rule upon request of the affected utility.

(5) Method of Refund Distribution. For those customers still on the system, a credit shall be made on the bill. In the event the refund is for a greater amount than the bill, the remainder of the credit shall be carried forward until the refund is completed. If the customer so requests, a check for any negative balance must be sent to the customer within 10 days of the request. For customers entitled to a refund but no longer on the system, the company shall mail a refund check to the last known billing address except that no refund for less than \$1.00 will be made to these customers.

(6) Security for Money Collected Subject to Refund. In the case of money being collected subject to refund, the money shall be secured by a bond unless the Commission specifically authorizes some other type of security such as placing the money in escrow, approving a corporate undertaking, or providing a letter of credit. The company shall provide a report by the 20th of each month indicating the monthly and total amount of money subject to refund as of the end of the preceding month. The report shall also indicate the status of whatever security is being used to guarantee repayment of the money.

(7) Refund Reports. During the processing of the refund, monthly reports on the status of the refund shall be made by the 20th of the following month. In addition, a preliminary report shall be made within 30 days after the date the refund is completed and again 90 days thereafter. A final report shall be made after all administrative aspects of the refund are completed. The above reports shall specify the following:

(a) The amount of money to be refunded and how that amount was computed;

(b) The amount of money actually refunded;

(c) The amount of any unclaimed refunds; and

(d) The status of any unclaimed amounts.

(8) Any unclaimed refunds shall be treated as cash contributions-in-aid-of-construction.

*Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.0814, 367.082(2) FS. History—New 8-18-83, Formerly 25-10.76, 25-10.076, Amended 11-30-93, \_\_\_\_\_.*

#### SUMMARY OF THE RULE

Rule 25-30.350, F.A.C., sets forth the procedure for calculating overbillings and underbillings for water and wastewater utilities and how overbillings and underbillings are calculated.

Rule 25-30.360, F.A.C., sets forth the procedure for disbursing the amount of refunds for water and wastewater utilities.

#### WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

The two rules are amended to reflect that they function in conjunction with each other. Subsection (3) of Rule 25-30.350, F.A.C., is amended to include a reference to Rule 25-30.360, F.A.C., to clarify that if there is a determination of overbilling, any refunds for overbillings must be disbursed pursuant to Rule 25-30.360, F.A.C. Similarly, subsection (1) of Rule 25-30.360, F.A.C., is amended to add a reference to Rule 25-30.350, F.A.C., to clarify that before a refund can be disbursed, the calculation for overbillings must first be made pursuant to Rule 25-30.350, F.A.C.

#### SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.