

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a limited proceeding to increase wastewater rates and service availability charges in Polk County, by NC Real Estate Projects, LLC d/b/a Grenelefe Utility.

DOCKET NO. 20260098-WS
ORDER NO. PSC-2026-0360-PAA-WS
ISSUED: October 16, 2026

The following Commissioners participated in the disposition of this matter:

GABRIELLA PASSIDOMO SMITH, Chairman
GARY F. CLARK
MIKE LA ROSA
BOBBY PAYNE
ANA ORTEGA

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING PETITION FOR VARIANCE AND WAIVER

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Background

On July 1, 2026, NC Real Estate Projects, LLC d/b/a Grenelefe Utility (Grenelefe or Utility) filed an Application for limited proceeding to increase wastewater rates and service availability charges (Application). Grenelefe is a Class B water and wastewater utility providing service to approximately 1,400 water and wastewater customers in Polk County. The Utility's service territory is located within the Southwest Florida Water Management District (SWFWMD). The Utility states in its Application that the purpose of the limited proceeding is to recover the costs associated with the rebuilding of its wastewater treatment plant (WWTP).

In a staff assisted rate case (SARC) filed in 2025, the Utility sought over \$16 million dollars in increased rates and charges to pay for the rebuild of the WWTP. We denied the Utility's request on the following grounds:

We recognize that the Utility must meet applicable BMAP [Basin Area Management Plan] guidelines and that the DEP [Department of Environmental Protection] has established deadlines for compliance. Despite these requirements, Grenelefe is currently only in the initial bidding phase of this project, total project cost is still uncertain, and the Utility's estimated completion date for the project is beyond the statutory 24-month timeframe. Based on these facts, we are not approving this project for cost recovery at this time. We recognize the DEP requirements set forth in the AO [Administrative Order] and the statutory BMAP requirements.

Based on the Utility's responses to our staff's data requests, it remains unclear what portion of the proposed WWTP modifications is necessary to achieve compliance with the DEP's BMAP regulations. As stated above, DEP is not directly requiring the Utility to increase the permitted capacity of its WWTP; therefore, not all costs associated with the proposed project appear to be compliance-driven. Without a clear delineation of the specific improvements and corresponding costs required to meet the DEP's BMAP regulations, we cannot approve the pro forma project at this time. We cannot consider cost recovery for the project until the Utility provides a more detailed plan that clearly identifies the compliance-related project components and associated costs. *Our denial is without prejudice to Grenelefe filing a request for cost recovery of this project at an appropriate time when total project cost is known, the in-service date is established, and any material, related uncertainties are resolved.*¹

Grenelefe represents in its Application that the uncertainties listed in the underscored sentence above are resolved and its request is now ripe for consideration in a limited proceeding.

We have broad authority to conduct limited proceedings under Section 367.0822(1), Florida Statutes (F.S.). Rule 25-30.445, F.A.C., which we adopted to implement Section 367.0822, F.S., restricts the ability of water and wastewater systems to use the limited proceeding process. Rule 25-30.445(6), F.A.C., provides that a limited proceeding will not be allowed if:

- (a) The utility's filing includes more than six separate projects for which recovery is sought. Corresponding adjustments for a given project are not subject to the above limitation;
- (b) The requested rate increase exceeds 30 percent;
- (c) The utility has not had a rate case within seven years of the date the petition for limited proceeding is filed with the Commission; or
- (d) The limited proceeding is filed as the result of the complete elimination of either the water or wastewater treatment process.

¹ Order No. PSC-2026-0054-PAA-WS, issued February 25, 2026, in Docket No. 20250023-WS, *In re: Application for staff-assisted rate case in Polk County, by NC Real Estate Projects, LLC d/b/a Grenelefe Utility.* at p.18 (emphasis added).

Grenelefe acknowledges that its request would result in a rate increase of greater than 30 percent. Accordingly, on July 20, 2026, Grenelefe filed a petition for variance and waiver (Petition) of Rule 25-30.445(6)(b), F.A.C.

Florida law allows agencies to waive or provide other relief (variances) to persons subject to regulation where the strict application of uniformly applicable rule requirements leads to “unreasonable, unfair, and unintended results in particular instances.” Section 120.542(1), F.S. Variances and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness. Section 120.542(2), F.S.

On July 29, 2026, we filed a Florida Administrative Register notice acknowledging receipt of Grenelefe’s Petition. The time for filing comments, provided by Rule 28-104.003, F.A.C., expired on August 12, 2026. No comments as to Grenelefe’s Petition were received.

This order addresses Grenelefe’s Petition only. We have jurisdiction under Sections 120.542, 367.0822, and 367.121, F.S.

Analysis and Decision

In its Application, Grenelefe states that this proceeding is being requested to recover the costs associated with the rebuilding of its wastewater treatment plant by increases in wastewater rates and in service availability charges. Grenelefe asserts that the rebuild is being required by the Florida Department of Environmental Protection (DEP). Grenelefe further states that because this request is being made in order to recover costs required by a governmental or regulatory agency, these costs represent “Environmental Compliance Costs” as defined in Section 367.081(2)(a)2c, F.S.

Grenelefe argues that the intent of Rule 25-30.445(6)(b), F.A.C., is to prevent substantial increases in rates without a thorough review of all aspects of utility operations. Grenelefe states that the purpose of the Rule has already been met because all aspects of utility operations were thoroughly reviewed in a staff-assisted rate case² earlier this year. Therefore, enforcing that requirement and mandating that the Utility file a full rate case under Section 367.081, F.S., serves no useful additional purpose.

Further, Grenelefe argues that denial of this limited proceeding would result in:

- (a) Substantial additional cost and hardship to the utility and its customers by requiring the preparation and submittal of detailed MFRs and a full rate case for no useful purpose.

² Order Nos. PSC-2026-0054-PAA-WS, issued February 25, 2026, in Docket No. 20250023-WS, *In re: Application for staff-assisted rate case in Polk County, by NC Real Estate Projects, LLC d/b/a Grenelefe Utility*.

- (b) Substantial delay in the Utility being able to comply with DEP mandated improvements to its wastewater system that are already nearing their required implementation date, thereby adding additional hardship to the Utility.

Requirements of Section 120.542, F.S.

Section 120.542(2), F.S., provides a two-pronged test for determining when waivers of and variances from agency rules shall be granted:

. . . when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, “substantial hardship” means demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver. For purposes of this section, “principles of fairness” are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

Purpose of the Underlying Statute

Rule 25-30.445, F.A.C., primarily implements Section 367.0822, F.S.,³ which authorizes us to “conduct limited proceedings to consider, and act upon, any matter within its jurisdiction” Rule 25-30.445(6), F.A.C., serves to limit the matters that we may take up via a limited proceeding. We have previously opined as to the underlying purpose of Section 367.0822, F.S.:

We believe that the purpose of the Legislature in enacting Section 367.0822, Florida Statutes (1985), was to provide a narrow exception to Section 367.081, Florida Statutes (1985), which requires the Commission to consider a broad range of ratemaking components. The purpose of a limited proceeding is to permit review of generally singular topics, or a few well-defined issues, to the exclusion of all others. The limited applicability of such a proceeding mandates that the burden must rest on the utility to prove that Section 367.0822, Florida Statutes (1985) should, in fact, be utilized with regard to a specific case.⁴

In the instant case, Grenelefe argues that the purpose of the underlying statute is achieved by reviewing the singular topic – the WWTP rebuild – we denied without prejudice in the previous SARC. We agree that the purpose of the underlying statute will be achieved and that this limited proceeding is to address just the additional wastewater rates and charges that would be incurred because of the DEP requirement. The DEP mandate was raised during the utility’s last SARC, but was denied due to lack of information to make a proper determination. The other

³ Rule 25-30.445, F.A.C., also implements Sections 367.081, 367.0812, 367.121(1)(a), and 367.145(2), F.S.

⁴ Order No. 16670, issued October 2, 1986, in Docket No. 861056-SU, *In re: Petition of Betmar Utilities for Limited Proceeding for Adjustment in Sewer Rate Base in Pasco County* and PSC-2010-0219-PAA-WS.

issues that would be addressed in a full rate case under 367.081, F.S., were addressed in the SARC. The limited proceeding will allow for finality on the WWTP improvements.

Substantial Hardship or Principles of Fairness

The second prong of the rule waiver test is met if strict application of the rule either (1) creates a substantial hardship or (2) would violate the principles of fundamental fairness. The utility may meet the second prong through either path and is not required to show both.

Grenelefe argues that denial of this limited proceeding based on the application of Rule 25-30.445(6)(b), F.A.C., would result in substantial hardship because there would be added cost to the Utility and its customers if Grenelefe were required to prepare and submit detailed MFRs, that a substantial delay in the improvements to the WWTP would result, and the Utility would then be in violation of requirements imposed by DEP. We agree that requiring Grenelefe to prepare and submit detailed MFRs for the entirety of its utility would create a substantial hardship on the utility and its customers and is unnecessary this quickly after the SARC. On Grenelefe's second point, we agree that DEP has mandated that Grenelefe bring its WWTP into compliance and that delay in pursuing improvements may result in a substantial hardship. The scope of DEP's requirements, the cost of potential upgrades, and appropriate recovery are all factual issues to be addressed by us when our staff brings a full recommendation forward on the Utility's Application. Denial of this waiver and the opportunity for Grenelefe to pursue a limited proceeding would create a substantial hardship for the Utility. Therefore, we find that Grenelefe's request satisfies the second prong of Section 120.542, F.S.

Conclusion

Section 120.542(1), F.S., acknowledges that strict application of uniformly applicable rule requirements can lead to unreasonable, unfair, and unintended results in particular instances. We must waive a rule if the utility can show both that the purpose of the underlying statute is achieved by other means, and that the principles of fairness are violated if the rule is strictly applied. Grenelefe has demonstrated that the purpose of the underlying statute will be achieved by other means and that the application of the rule would create a substantial hardship or would violate the principles of fairness. Therefore, we grant the petition for waiver of Rule 25-30.445(6), F.A.C.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that NC Real Estate Projects, LLC d/b/a Grenelefe Utility's Petition for Variance and Waiver is granted and Rule 25-30.445(6), F.A.C. is waived for the limited purpose requested in the petition. It is further

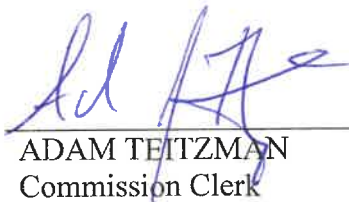
ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the

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close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket shall remain open pending our final resolution of NC Real Estate Projects, LLC d/b/a Grenelefe Utility's limited proceeding.

By ORDER of the Florida Public Service Commission this 16th day of October, 2026.



ADAM TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 6, 2026.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.