

CHAPTER 2014-68

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 272

An act relating to water utilities; creating s. 367.072, F.S.; providing legislative findings; defining the term “customer”; authorizing the Florida Public Service Commission to revoke a certificate of authorization upon receipt of a petition; providing criteria for such petition; authorizing the commission to adopt rules; creating s. 367.0812, F.S.; requiring the commission to consider the quality of water service when fixing rates; providing criteria that the commission must consider in making its determination; requiring the utility to meet with its customers to discuss the costs and benefits of plausible solutions if the commission finds that the utility has failed to meet certain quality of water standards; prohibiting a customer from petitioning the commission to revoke the certificate of authorization of a utility under certain circumstances; authorizing the commission to prescribe penalties for certain failures of the utility; requiring the commission to adopt rules; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 367.072, Florida Statutes, is created to read:

367.072 Petition to revoke certificate of authorization.—The Legislature finds that it is in the public interest that water service be of good quality and consistent with the standards set forth in this chapter. Therefore, a utility’s certificate of authorization to provide water service may be revoked if, after its customers file a petition with the commission, the commission finds that revocation is in the best interest of the customers in accordance with this section. As used in this section, the term “customer” means an individual whose property is serviced by a single meter or a person whose name appears on the bill for a master meter.

(1)(a) If the commission receives a letter from the customers of a utility stating their intent to file a petition pursuant to this section, the commission staff, within 10 days after receipt of the letter, shall notify the utility of the customers’ intent to file a petition.

(b) Commission staff shall send to the customers instructions regarding the information required on the petition and the subsequent process the commission will follow. The petition must be filed within 90 days after the receipt of the instructions. Commission staff shall review the petition and notify the customers within 10 days after receipt of the petition that the petition is sufficient for the commission to act or that additional information is necessary. The customers must file a cured petition within 30 days after receipt of the notice to cure and provide a copy of the petition to the utility. If the customers fail to file or refile a petition within the allotted time, the

commission shall dismiss the petition with prejudice, and the customers may not file another petition for 1 year after the dismissal.

(2) A petition must:

(a) State with specificity each issue that customers have with the quality of water service, each time the issue was reported to the utility, and how long each issue has existed; and

(b) Be signed by at least 65 percent of the customers of the service area covered under the certificate of authorization. A person whose name appears on the bill for a master meter may sign a petition if at least 65 percent of the customers, tenants, or unit owners served by the master meter support the petition, in which case documentation of such support must be included with the petition.

(3) If the petition is in compliance with this section and the issues identified within the petition support a reasonable likelihood that the utility is failing to provide quality of water service, the utility shall thereafter be prohibited from filing a rate case until the commission has issued a final order addressing the issues identified in the petition. The utility shall use the following criteria in preparing a response to the commission, addressing the issues identified within the petition and defending the quality of its water service:

(a) Federal and state primary water quality standards or secondary water quality standards pursuant to s. 367.0812; and

(b) The relationship between the utility and its customers, including each complaint received regarding the quality of water service, the length of time each customer has been complaining about the service, the resolution of each complaint, and the time it has taken to address such complaints.

(4) The commission shall evaluate the issues identified in the petition, the utility's response as to whether it is providing quality of water service, and any other factor the commission deems relevant.

(5) Based upon its evaluation, the commission shall:

(a) Dismiss the petition, in which case the decision must be supported by clear and convincing evidence and is subject to ss. 120.569 and 120.57;

(b) Require the utility to take the necessary steps to correct the quality of water service issues identified in the petition. The commission shall set benchmarks within a timeframe, not to exceed 3 years, and may require the utility to provide interim reports describing its progress in meeting such benchmarks. The commission may extend the term 3 years for circumstances that delay the project which are not in the control of the utility, such as natural disasters and obtaining permits necessary for meeting such benchmarks; or

(c) Notwithstanding s. 367.045, revoke the utility’s certificate of authorization, in which case a receiver must be appointed pursuant to s. 367.165 until a sale of the utility system has been approved pursuant to s. 367.071.

(6) The commission shall adopt by rule the format of and requirements for a petition and may adopt other rules to administer this section.

Section 2. Section 367.0812, Florida Statutes, is created to read:

367.0812 Rate fixing; quality of water service as criterion.—

(1) In fixing rates that are just, reasonable, compensatory, and not unfairly discriminatory, the commission shall consider the extent to which the utility provides water service that meets secondary water quality standards as established by the Department of Environmental Protection. In determining whether a utility has satisfied its obligation to provide quality of water service that meets these standards, the commission shall consider:

(a) Testimony and evidence provided by customers and the utility;

(b) The results of past tests required by a county health department or the Department of Environmental Protection which measure the utility’s compliance with the applicable secondary water quality standards;

(c) Complaints regarding the applicable secondary water quality standards filed by customers with the commission, the Department of Environmental Protection, the respective local governmental entity, or a county health department during the past 5 years; and

(d) If the commission deems necessary, the results of any updated test.

(2)(a) In determining the quality of water service, the commission shall consider a finding by the Department of Environmental Protection as to whether the utility has failed to provide water service that meets the secondary water quality standards of the department.

(b) The utility shall create an estimate of the costs and benefits of a plausible solution to each issue identified by the commission.

(c) The utility shall meet with its customers within a time prescribed by the commission to discuss the estimated costs and benefits of and time necessary for implementing a plausible solution for each quality of water service issue identified, and the utility shall report the results of such meetings to the commission.

(d) The utility shall inform the commission, if:

1. The customers and the utility agree on a solution for each quality of water service issue identified, of each agreed on solution and the cost of each solution; or

2. The customers and the utility prefer a different solution to at least one of the quality of water service issues identified, of the preferred solutions by each and the cost of each solution.

(e) The commission may require the utility to implement a solution that is in the best interest of the customers for each quality of water service issue. The utility may recover its costs in implementing the solutions ordered by the commission. The commission may establish the necessary benchmarks that a utility must meet for each solution and require the utility to report periodically until each solution is completed.

(3) Notwithstanding s. 367.072, customers may not petition the commission to revoke the certificate of authorization of a utility if it is the subject of a proceeding under this chapter.

(4) The commission may prescribe penalties for a utility's failure to adequately resolve each quality of water service issue as required. Penalties may include penalties as provided in s. 367.161, a reduction of return on equity of up to 100 basis points, the denial of all or part of a rate increase for a utility's system or part of a system if it determines that the quality of water service is less than satisfactory until the quality of water is found to be satisfactory, or revocation of the certificate of authorization pursuant to s. 367.072.

(5) The commission shall adopt rules to assess and enforce compliance with this section.

Section 3. For the 2014-2015 fiscal year, the sums of \$212,521 in recurring funds and \$12,012 in nonrecurring funds from the General Revenue Fund and three full-time equivalent positions with an associated salary rate of 131,235 are appropriated to the Florida Public Service Commission to implement the provisions of this act related to the regulation of the quality of water service.

Section 4. This act shall take effect July 1, 2014.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.