

CHAPTER 2023-291

Committee Substitute for Committee Substitute for House Bill No. 125

An act relating to utility system rate base values; creating s. 367.0811, F.S.; providing legislative findings; defining the term “rate stabilization plan”; establishing an alternative procedure by which the Florida Public Service Commission may establish a rate base value for certain acquired utility systems; requiring that the approved rate base value be reflected in the acquiring utility’s next general rate case for ratemaking purposes; establishing a procedure for appraisal of the acquired utility system; providing the contents required for a petition to the commission for approval of the rate base value of the acquired utility system; providing duties of the commission regarding petitions; authorizing the commission to set rates for and classify certain acquired utility systems; providing applicability; requiring the commission to take certain factors into consideration for certain rate base value petitions; requiring the commission to adopt rules; providing an effective date.

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

Section 1. Section 367.0811, Florida Statutes, is created to read:

367.0811 Rates; alternative procedure for establishing rate base value of acquired utility system.—

(1) The Legislature finds that it is in the public interest to promote consolidation efforts with water and wastewater utility systems in order to encourage economies of scale, better access to lower material and supply costs, better access to capital, improvement in utility infrastructure, and improvement in the quality of service overall.

(2) As used in this section, the term “rate stabilization plan” means an acquiring utility’s plan to implement rate changes incrementally over a period of time to mitigate rate increases and to predictably achieve consolidated pricing over time.

(3)(a) If a utility acquires an existing utility system, including a system described in s. 367.022(2), the utility may petition the commission to establish a rate base value for the utility system being acquired using the valuation process in this section instead of the cost method pursuant to s. 367.081.

(b) The rate base value established by the commission under this section shall be used for ratemaking purposes in the acquiring utility’s next general rate case. The rate base value may not exceed the lesser of the purchase price negotiated between the parties to the acquisition transaction or the average of the three appraisals conducted under subsection (4) and may not be

adjusted for contribution-in-aid-of-construction or used and useful in serving the public. However, the rate base value may include reasonable transaction and closing costs incurred by the acquiring utility and reasonable fees paid to the appraisers.

(4)(a) For purposes of this section, the utility system being acquired shall be appraised by three licensed appraisers chosen from a list established by the commission. Appraisals shall be paid for by the buyer. Each appraiser shall provide an appraisal of the value of the utility system being acquired that is consistent with the Uniform Standards of Professional Appraisal Practice.

(b) The acquiring utility and the utility system being acquired shall jointly retain a licensed engineer to conduct an assessment of the tangible assets of the utility system being acquired, and the assessment shall be provided to the three appraisers for use in determining the value of the utility system being acquired.

(5) A petition filed under this section to establish the rate base value for a utility system being acquired must contain all of the following:

(a) The requested rate base value for the utility system being acquired.

(b) Copies of the appraisals required by this section, including the average of the valuations produced by each appraisal.

(c) A copy of the assessment of tangible assets required by this section.

(d) A 3-year plan to address each deficiency identified by the assessment of tangible assets required by this section. The plan must address impact on quality of service and any planned improvements to water quality.

(e) The 5-year projected rate impact on the customers of the utility system being acquired, including, but not limited to, the rate impact of all of the following:

1. Any cost efficiencies expected to result from the acquisition transaction.

2. Use of this section, instead of the cost method pursuant to s. 367.081, to establish the rate base value.

(f) The contract of sale.

(g) The estimated value of fees and transaction and closing costs to be incurred by the acquiring utility.

(h) A tariff, including rates equal to the rates of the utility system being acquired, and a rate stabilization plan, if applicable to the acquisition. A rate stabilization plan must be filed if the acquisition would result in a significant individual increase in rates during the period identified in paragraph (e).

(6)(a) If the petition meets the filing requirements of subsection (5), the commission, no later than 8 months after the date the complete petition is filed, shall issue a final order on the petition.

(b) The commission may, in the public interest, grant the petition, in whole or in part, or with modifications or may deny the petition.

(c) The commission may not approve a rate base value higher than that requested in the petition.

(7) Notwithstanding any provision in this section, the commission may, pursuant to this chapter, set rates for the acquired utility system in future rate cases and may classify the acquired utility system as a separate entity for ratemaking purposes if it is deemed to be in the public interest.

(8) This section applies to acquiring utilities that are engaged in an arms-length acquisition of a water or wastewater system, or both, and:

(a) Provide water or wastewater service, or both, to more than 10,000 customers; or

(b) Are permitted to produce at least 3 million gallons per day of drinking water.

(9) At minimum, in considering a rate base value petition pursuant to this section, the commission must consider all of the following in serving the public interest and pursuant to the goals of this section:

(a) Improvements in quality of service.

(b) Improvements in compliance with regulatory requirements.

(c) Rate reductions or rate stability over a long-term period.

(d) Cost efficiencies.

(e) A demonstration that the purchase is being made as part of an arms-length transaction.

(f) Economies of scale to be generated by the transaction.

(g) A comparison of the acquiring utility's net book value, to the extent available, and the proposed rate base value of the utility being acquired.

(h) A demonstration that the acquiring utility has greater access to capital than the utility being acquired.

(10) The commission may set reasonable performance goals based on the standards specified in subsection (9) and review utility performance regarding these standards in a rate proceeding.

(11) The commission shall adopt rules to implement this section.

Section 2. This act shall take effect July 1, 2023.

Approved by the Governor June 26, 2023.

Filed in Office Secretary of State June 26, 2023.