

2014272er

1
2 An act relating to water utilities; creating s.
3 367.072, F.S.; providing legislative findings;
4 defining the term "customer"; authorizing the Florida
5 Public Service Commission to revoke a certificate of
6 authorization upon receipt of a petition; providing
7 criteria for such petition; authorizing the commission
8 to adopt rules; creating s. 367.0812, F.S.; requiring
9 the commission to consider the quality of water
10 service when fixing rates; providing criteria that the
11 commission must consider in making its determination;
12 requiring the utility to meet with its customers to
13 discuss the costs and benefits of plausible solutions
14 if the commission finds that the utility has failed to
15 meet certain quality of water standards; prohibiting a
16 customer from petitioning the commission to revoke the
17 certificate of authorization of a utility under
18 certain circumstances; authorizing the commission to
19 prescribe penalties for certain failures of the
20 utility; requiring the commission to adopt rules;
21 providing an appropriation; providing an effective
22 date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 367.072, Florida Statutes, is created to
27 read:

28 367.072 Petition to revoke certificate of authorization.-
29 The Legislature finds that it is in the public interest that

2014272er

30 water service be of good quality and consistent with the
31 standards set forth in this chapter. Therefore, a utility's
32 certificate of authorization to provide water service may be
33 revoked if, after its customers file a petition with the
34 commission, the commission finds that revocation is in the best
35 interest of the customers in accordance with this section. As
36 used in this section, the term "customer" means an individual
37 whose property is serviced by a single meter or a person whose
38 name appears on the bill for a master meter.

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

44 (b) Commission staff shall send to the customers
45 instructions regarding the information required on the petition
46 and the subsequent process the commission will follow. The
47 petition must be filed within 90 days after the receipt of the
48 instructions. Commission staff shall review the petition and
49 notify the customers within 10 days after receipt of the
50 petition that the petition is sufficient for the commission to
51 act or that additional information is necessary. The customers
52 must file a cured petition within 30 days after receipt of the
53 notice to cure and provide a copy of the petition to the
54 utility. If the customers fail to file or refile a petition
55 within the allotted time, the commission shall dismiss the
56 petition with prejudice, and the customers may not file another
57 petition for 1 year after the dismissal.

58 (2) A petition must:

2014272er

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

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

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

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

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

86 (4) The commission shall evaluate the issues identified in
87 the petition, the utility's response as to whether it is

2014272er

88 providing quality of water service, and any other factor the
89 commission deems relevant.

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

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

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

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

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

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

112 367.0812 Rate fixing; quality of water service as
113 criterion.—

114 (1) In fixing rates that are just, reasonable,
115 compensatory, and not unfairly discriminatory, the commission
116 shall consider the extent to which the utility provides water

2014272er

117 service that meets secondary water quality standards as
118 established by the Department of Environmental Protection. In
119 determining whether a utility has satisfied its obligation to
120 provide quality of water service that meets these standards, the
121 commission shall consider:

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

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

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

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

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

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

143 (c) The utility shall meet with its customers within a time
144 prescribed by the commission to discuss the estimated costs and
145 benefits of and time necessary for implementing a plausible

2014272er

146 solution for each quality of water service issue identified, and
147 the utility shall report the results of such meetings to the
148 commission.

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

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

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

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

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

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

2014272er

175 the certificate of authorization pursuant to s. 367.072.

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

178 Section 3. For the 2014-2015 fiscal year, the sums of
179 \$212,521 in recurring funds and \$12,012 in nonrecurring funds
180 from the General Revenue Fund and three full-time equivalent
181 positions with an associated salary rate of 131,235 are
182 appropriated to the Florida Public Service Commission to
183 implement the provisions of this act related to the regulation
184 of the quality of water service.

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