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CS/CS/HB 125

2023 Legislature

1
2 An act relating to utility system rate base values;
3 creating s. 367.0811, F.S.; providing legislative
4 findings; defining the term "rate stabilization plan";
5 establishing an alternative procedure by which the
6 Florida Public Service Commission may establish a rate
7 base value for certain acquired utility systems;
8 requiring that the approved rate base value be
9 reflected in the acquiring utility's next general rate
10 case for ratemaking purposes; establishing a procedure
11 for appraisal of the acquired utility system;
12 providing the contents required for a petition to the
13 commission for approval of the rate base value of the
14 acquired utility system; providing duties of the
15 commission regarding petitions; authorizing the
16 commission to set rates for and classify certain
17 acquired utility systems; providing applicability;
18 requiring the commission to take certain factors into
19 consideration for certain rate base value petitions;
20 requiring the commission to adopt rules; providing an
21 effective date.

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

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25 Section 1. Section 367.0811, Florida Statutes, is created

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26 | to read:

27 | 367.0811 Rates; alternative procedure for establishing
 28 | rate base value of acquired utility system.-

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

35 | (2) As used in this section, the term "rate stabilization
 36 | plan" means an acquiring utility's plan to implement rate
 37 | changes incrementally over a period of time to mitigate rate
 38 | increases and to predictably achieve consolidated pricing over
 39 | time.

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

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

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51 and may not be adjusted for contribution-in-aid-of-construction
52 or used and useful in serving the public. However, the rate base
53 value may include reasonable transaction and closing costs
54 incurred by the acquiring utility and reasonable fees paid to
55 the appraisers.

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

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

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

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

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

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76 appraisal.

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

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

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

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

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

90 (f) The contract of sale.

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

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

99 (6) (a) If the petition meets the filing requirements of
 100 subsection (5), the commission, no later than 8 months after the

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101 date the complete petition is filed, shall issue a final order
 102 on the petition.

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

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

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

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

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

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

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

124 (a) Improvements in quality of service.

125 (b) Improvements in compliance with regulatory

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126 requirements.

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

128 period.

129 (d) Cost efficiencies.

130 (e) A demonstration that the purchase is being made as

131 part of an arms-length transaction.

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

133 (g) A comparison of the acquiring utility's net book

134 value, to the extent available, and the proposed rate base value

135 of the utility being acquired.

136 (h) A demonstration that the acquiring utility has greater

137 access to capital than the utility being acquired.

138 (10) The commission may set reasonable performance goals

139 based on the standards specified in subsection (9) and review

140 utility performance regarding these standards in a rate

141 proceeding.

142 (11) The commission shall adopt rules to implement this

143 section.

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