

By the Committee on Regulated Industries; and Senator Hooper

580-02869-23

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1 A bill to be entitled
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
26 to read:

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

29 (1) The Legislature finds that it is in the public interest

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30 to promote consolidation efforts with water and wastewater
31 utility systems in order to encourage economies of scale, better
32 access to lower material and supply costs, better access to
33 capital, improvement in utility infrastructure, and improvement
34 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 under
46 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)
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

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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
76 appraisal.

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

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88 2. Use of this section, instead of the cost method pursuant
89 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 closing
92 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
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 higher
107 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

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117 than 10,000 customers; or

118 (b) Are permitted to produce at least 3 million gallons per
119 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
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 part
131 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 value,
134 to the extent available, and the proposed rate base value of the
135 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.