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DIVISION OF APPEALS
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Public Service Commission

March 22, 1999

Mr. Carroll Webb
Joint Administrative Procedures
Committee
120 Holland Building
Tallahassee, Florida 32399

Re: Docket No. 980561-WS, Proposed Amendment of Rules 25-30.420, Establishment of Price Index, Adjustment of Rates; Requirement of Bond; Findings After Adjustment; Notice to Customers; and 25-30.425, Pass Through Rate Adjustment

Dear Mr. Webb:

Enclosed is the notice of change, which was published in the Florida Administrative Code on February 25, 1999, and the statement of changes for the proposed amendments to Rules 25-30.420 and 25-30.425.

ACK _____ We plan to file the rule for adoption on March 29, 1999.

AFA _____

APP _____

CAF _____

CMU _____

CTR _____

EAG _____

LEG _____ ADT420.CTM

LIN _____ Enclosure

OPC _____ cc: Division of Records & Reporting

RCH _____

SEC _____ 1

WAS _____

OTH _____

Sincerely,

Christiana T. Moore
Associate General Counsel

DOCUMENT NUMBER-DATE

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STATEMENT OF CHANGES

Rule 25-30.420

Changes to sections (1), (1)(b), and (3) were made to address the concerns of the JAPC Staff Attorney.

25-30.420(1): The application for a price index increase was adopted as a form and incorporated by reference.

25-30.420(1)(b): The term "may" was changed to "will", requiring the Commission to consider (review and weigh) cost data supplied by utility companies or other interested parties, and applicable wage and price guidelines. The phrase "other relevant available data" was also stricken because it is too broad to make it required, and is unnecessary.

25-30.420(3): This section of the rule was changed to make the filing of certain information mandatory rather than discretionary.

Section (5) of the rule was deleted based on comments in the record of the rulemaking that the Commission has never invoked this provision for the purpose of determining a utility's earnings position. An audit of the utility is usually conducted for that purpose. In addition, the Commission may initiate rate proceedings on its own motion pursuant to sections 367.081(2)(a) or 367.0822, Florida Statutes. Therefore, the reiteration of that authority in this rule is unnecessary.

Rule 25-30.425

A new section (6) was added to Rule 25-30.425, F.A.C., based on agreement by the participants in the hearings, and approval of the Commission, that a utility that has not passed through a prior decrease in rates should not obtain a current pass through increase that results in rates greater than actual cost; nor should a current increase be offset by prior decreases that were not passed through as long as the utility does not have more than current cost in its new rate. The added language clarifies the limits of a pass-through increase.

Section (8) of the rule was changed to delete part of the proposed new language based on concerns stated by a hearing participant that it was unnecessary to clarify the current language because it had not been the subject of any disputes.

1 25-30.420 Establishment of Price Index, Adjustment of Rates;
2 Requirement of Bond; Filings After Adjustment; Notice to Customers.

3 (1) The Commission shall, on or before March 31 of each year,
4 establish a price increase or decrease index as required by section
5 367.081(4)(a), F. S. The Division of Records and Reporting shall
6 mail each regulated water and wastewater utility a copy of the
7 proposed agency action order establishing the index for the year
8 and a copy of the application. Form PSC/WAW 15 (/), entitled
9 "Index Application", is incorporated into this rule by reference
10 and may be obtained from the Commission's Division of Water and
11 Wastewater. Applications for the newly established price index
12 will be accepted from April 1 of the year the index is established
13 through March 31 of the following year.

14 (a) The index shall be applied to all operation and
15 maintenance expenses, except for amortization of rate case expense,
16 costs subject to pass-through adjustments pursuant to section
17 367.081(4)(b), F.S., and adjustments or disallowances made in a
18 utility's most recent rate proceeding. ~~in determining major-~~
19 ~~categories of operating costs to which the index will apply, the~~
20 ~~Commission may consider whether the cost category is material to~~
21 ~~the operation of water and wastewater utilities, whether the cost~~
22 ~~category is applicable to all utilities regardless of size and~~
23 ~~geographic location, and whether sufficient data is available~~
24 ~~regarding price increases or decreases.~~

25 (b) In establishing the price index ~~indices for major~~

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1 | ~~categories of operating costs~~, the Commission will ~~may~~ consider
2 | cost statistics compiled by government agencies or bodies, cost
3 | data supplied by utility companies or other interested parties, and
4 | applicable wage and price guidelines, ~~or other relevant available~~
5 | ~~data~~.

6 | (2) Any utility seeking to increase or decrease its rates
7 | based upon the application of the index indices established
8 | pursuant to subsection (1) and as authorized by section
9 | 367.081(4)(a), F. S., shall file an original and five copies of a
10 | notice of intention and the materials listed in (a) through (g)
11 | below with the Commission's Division of Water and Wastewater at
12 | least 60 days prior to the effective date of the increase or
13 | decrease. The adjustment in rates shall take effect on the date
14 | specified in the notice of intention unless the Commission finds
15 | that the notice of intention or accompanying materials do not
16 | comply with the law, or the rules or orders of the Commission. The
17 | notice shall be accompanied by:

18 | (a) Revised tariff sheets;

19 | (b) A computation schedule showing the increase or decrease in
20 | annual revenue that will result when the index is applied;

21 | (c) The affirmation required by section 367.081(4)(c), F. S.;

22 | (d) A copy of the notice to customers required by subsection
23 | (6);

24 | (e) The rate of return on equity that the utility is affirming
25 | it will not exceed pursuant to section 367.081(4)(c), F. S.;

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1 (f) An annualized revenue figure for the test year used in the
2 index calculation reflecting the rate change, along with an
3 explanation of the calculation, if there has been any change in the
4 utility's rates during or subsequent to the test year;

5 (g) The utility's Department of Environmental Protection
6 Public Water System identification number and Wastewater Treatment
7 Plant Operating Permit number.

8 (3) ~~If~~ The Commission, upon its own motion, ~~may~~ implementg an
9 increase or decrease in the rates of a utility based upon the
10 application of the index indices established pursuant to subsection
11 (1) and as authorized by section 367.081(4)(a), F. S., ~~t~~The
12 Commission will ~~may~~ require a utility to file ~~any~~ of the
13 information required in subsection (2).

14 (4) Upon a finding of good cause, the Commission may require
15 that a rate increase pursuant to section 367.081(4)(a), F. S., be
16 implemented under a bond ~~or~~ of corporate undertaking in the same
17 manner as interim rates. For purposes of this subsection, "good
18 cause" shall include:

19 (a) Inadequate service by the utility;

20 (b) Inadequate record-keeping by the utility such that the
21 Commission is unable to determine whether the utility is entitled
22 to implement the rate increase or decrease under this rule.

23 ~~(5) After a rate adjustment pursuant to this rule, the~~
24 ~~Commission may require a utility to file with it such information~~
25 ~~required in Rule 25 30.436, F. A. C., that is necessary to~~

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1 ~~determine whether the utility has exceeded its last authorized rate~~
2 ~~of return.~~

3 ~~(5)(6)~~ Prior to the time a customer begins consumption at the
4 rates established by application of the index, the utility shall
5 notify each customer of the increase ~~(or decrease)~~ authorized and
6 explain the reasons therefor.

7 ~~(6)(7)~~ No utility shall file a notice of intention implement
8 ~~a rate increase~~ pursuant to this rule unless the utility has on
9 file with the Commission an ~~a current~~ annual report as required by
10 Rule 25-30.110(3), F. A. C., for the test year specified in the
11 order establishing the index for the year.

12 ~~(7)(8)~~ No utility shall implement a rate increase pursuant to
13 this rule within one year of the official date that it filed a rate
14 proceeding, unless the rate proceeding has been completed or
15 terminated.

16 Specific Authority 350.127(2), 367.081(4)(a), 367.121(1)(c),
17 367.121(1)(f) F.S.

18 Law Implemented 367.081(4), 367.121(1)(c), 367.121(1)(g), F.S.

19 History--New 4-5-81, Amended 9-16-82, Formerly 25-10.185, Amended
20 11-10-86, 6-5-91, _____.

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1 25-30.425 Pass Through Rate Adjustment. The verified notice
2 to the Commission of an adjustment of rates under the provisions of
3 section 367.081(4)(b), F. S., shall be made in the following
4 manner:

5 (1) Prior to an adjustment in rates because of an increase or
6 decrease in purchased utility service, the utility shall file:

7 (a) A certified copy of the order, ordinance or other
8 evidence whereby the rates for utility service are increased or
9 decreased by the governmental agency or by a water or wastewater
10 utility regulated by the Commission, along with evidence of the
11 utility service rates of that governmental agency or water or
12 wastewater utility in effect on January 1 of each of the three
13 preceding years.

14 (b) A statement setting out by month the charges for utility
15 services purchased from the governmental agency or regulated
16 utility for the most recent 12-month period.

17 (c) 1. A statement setting out by month the gallons of water
18 or wastewater treatment purchased from the governmental agency or
19 regulated utility for the most recent 12-month period. If
20 wastewater treatment service is not based on a metered flow, the
21 number of units by which the service is measured shall be stated.

22 2. A statement setting out by month gallons of water and
23 units of wastewater service sold by the utility for the most recent
24 12-month period.

25 (d) A statement setting out by month the gallons of water or

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1 wastewater treatment purchased from any other government entity or
2 utility company.

3 (e) A statement setting out by month the gallons of water
4 pumped or wastewater treated by the utility filing the verified
5 notice.

6 (f) If the total water available for sale is in excess of
7 110% of the water sold, a statement explaining the unaccounted for
8 water.

9 (2) Prior to an adjustment in rates because of an increase or
10 decrease in the charge for electric power the utility shall file
11 with the Commission:

12 (1) A certified copy of the order, ordinance or other
13 evidence which establishes that the rates for electric power have
14 been increased or decreased by the supplier, along with evidence of
15 the electric power rates of the supplier in effect on January 1 of
16 each of the three preceding years.

17 (b) A schedule showing, by month, the charges for electric
18 power and consumption for the most recent 12 month period, the
19 charges that would have resulted had the new electric rates been
20 applied, and the difference between the charges under the old rates
21 and the charges under the new rates.

22 (c) A statement outlining the measures taken by the utility
23 to conserve electricity.

24 (3) Prior to an adjustment in rates because of an increase or
25 decrease in ad valorem taxes the utility shall file with the

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1 Commission:

2 (a) A copy of the ad valorem tax bills which increased or
3 decreased and copies of the previous three years' bills; if copies
4 have been submitted previously, a schedule showing the tax total
5 only is acceptable; and

6 (b) A calculation of the amount of the ad valorem taxes
7 related to that portion of the water or wastewater plant not used
8 and useful in providing utility service.

9 (4) Prior to an adjustment in rates because of an increase or
10 decrease in the costs of water quality or wastewater quality
11 testing required by the Department of Environmental Protection
12 (DEP) Regulation, or because of an increase or decrease in the fees
13 charged by DEP in connection with the National Pollutant Discharge
14 Elimination System Program, the utility company shall file with the
15 Commission:

16 (a) A copy of the invoice for testing;

17 (b) Calculation of the amortized amount.

18 (5) In addition to (1), (2), and (3), and (4) above, the
19 utility shall also file:

20 (a) A schedule of proposed rates which will pass the
21 increased or decreased costs on to the customers in a fair and
22 nondiscriminatory manner and on the basis of current customers, and
23 a calculation showing how the rates were determined;

24 (b) A statement, by class of customer and meter size, setting
25 out by month the gallons of water and units of wastewater service

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1 sold by the utility for the most recent 12 month period. This
2 statement shall not be required in filings for the pass through of
3 increased regulatory assessment fees or ad valorem taxes;

4 (c) The affirmation reflecting the authorized rate of return
5 on equity required by section 367.081(4)(c), F. S.; and

6 (d) A copy of the notice to customers required by subsection
7 (7) of this rule;

8 (e) Revised tariff sheets reflecting the increased rates; and

9 (f) The rate of return on equity that the utility is
10 affirming it will not exceed pursuant to section 367.081(4)(c), F.
11 S.; and

12 (g) The utility's DEP Public Water System identification
13 number and Wastewater Treatment Plant Operating Permit number;

14 (6) The amount authorized for pass through rate adjustments
15 shall not exceed the actual cost incurred and shall not exceed the
16 incremental increase or decrease for the 12-month period.
17 Foregone pass through decreases shall not be used to adjust a pass
18 through increase below the actual cost incurred.

19 ~~(7)(6)~~ In order for the Commission to determine whether a
20 utility which had adjusted its rates pursuant to section
21 367.081(4)(b), F. S., has thereby exceeded the range of its last
22 authorized rate of return, the Commission may require a utility to
23 file the information required in Rule 25-30.437, F. A. C., for the
24 test year specified.

25 ~~(8)(7)~~ Prior to the time a customer begins consumption at the

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5 on equity required by section 367.081(4)(c), F. S.; and

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7 (7) of this rule;

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9 (f) The rate of return on equity that the utility is
10 affirming it will not exceed pursuant to section 367.081(4)(c), F.
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20 utility which had adjusted its rates pursuant to section
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22 authorized rate of return, the Commission may require a utility to
23 file the information required in Rule 25-30.437, F. A. C., for the
24 test year specified.

25 ~~(8)(7)~~ Prior to the time a customer begins consumption at the

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1 | adjusted rates, the utility shall notify each customer of the
2 | increase authorized and explain the reasons for the increase.

3 | ~~(9)(e)~~ The utility shall file an original and five copies of
4 | the verified notice and supporting documents with the Division of
5 | Water and Wastewater. The rates shall become effective 45 days
6 | after the official date of filing. The official date of filing for
7 | the verified notice to the Commission of adjustment in rates shall
8 | be at least 45 days before the new rates are implemented.

9 | Specific Authority 350.127(2), 367.121(1)(c), 367.121(1)(f), F.S.
10 | Law Implemented 367.081(4), 367.121(1)(c), 367.121(1)(g), F.S.
11 | History--New 6-10-75, Amended 4-5-79, 4-5-81, 10-21-82, Formerly
12 | 25-10.179, Amended 11-10-86, 6-5-91,_____.

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