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In re: Proposed adoption of Rule 25-30.4325,  
F.A.C., Water Treatment Plant Used and  
Useful Calculations.

DOCKET NO. 070183-WS

DATED: December 17, 2007

COMMISSION  
CLERK

STAFF'S PREHEARING STATEMENT

Pursuant to Order No. PSC-07-0777-PCO-WS, filed September 25, 2007, the Staff of the Florida Public Service Commission files its Prehearing Statement, as follows:

a. All Known Witnesses

Staff intends to call the following witnesses:

Witness

Purpose of Testimony

Van Hoofnagle, P.E.

To discuss DEP Rules 62-555.315, F.A.C., regarding public water system wells, and 62-555.320, F.A.C., Design Criteria of Public Water Systems, and how they relate to Commission practice regarding the economic regulation of water utilities.

Dwight T. Jenkins, Esq., P.G.

To explain how public water supply utilities are permitted by the water management districts, focusing on the St. Johns River Water Management District; to discuss how the aquifer is affected by pumping at wells in various locations and circumstances; to opine on whether pumps should have "down time" in order for the aquifer to recharge in the pumping zones; to opine on whether the general usage pattern of most customers reflects a need for only twelve hours of pumping; and to explain whether conservation has reduced (or can be reasonably expected to reduce) the amount of water used on a per customer or per ERC basis.

- CMP \_\_\_\_\_
- COM 5
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_ Richard P. Redemann, P.E.
- SGA \_\_\_\_\_
- SEC \_\_\_\_\_
- OTH \_\_\_\_\_

To provide evidence on the appropriate methodology for calculating the used and usefulness of water systems in rate making proceedings and to support the proposed rule

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and offer certain alternative language to the proposed rule.

b. All Known Exhibits

Staff has identified the following list of exhibits that it intends to utilize at hearing:

EX__	DTJ-1	Curriculum Vitae of Dwight T. Jenkins, Esq., P.G.
EX__	RPR-1	Resume of Richard Paul Redemann, P.E.
EX__	RPR-2	Proposed Rule No. 25-30.4325
EX__	RPR-3	AWWA M32
EX__	RPR-4	St. Johns River Water Management District Water Conservation Plan
EX__	RPR-5	SWFWMD Water Use Permit Information Manual
EX__	RPR-6	Recommended Standards for Water Works
EX__	RPR-7	AWWA Water Distribution Systems Handbook and U.S. Army Corp of Engineers Design of Small Water Systems
EX__	RPR-8	Matrix

Staff reserves the right to identify additional exhibits at the Prehearing Conference and at hearing for purposes of cross-examination.

c. Staff's Statement of Basic Position

Staff's basic position is that proposed Rule 25-30.4325 should be adopted. However, in the spirit of compromise, staff is willing to agree to certain modifications to the proposed rule, as set forth below in staff's positions on the issues. Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions stated herein.

d. Staff's Positions on the Issues

**LEGAL ISSUE**

**ISSUE A:** Which party bears the burden of proof to demonstrate that proposed Rule 25-30.4325 should not be adopted?

**STAFF'S POSITION:** As the petitioner, the Office of Public Counsel bears the burden of proof to demonstrate that proposed Rule 25-30.4325 should not be adopted. If an intervenor or staff takes a position that any portion of the proposed rule should not be adopted, that party or staff has the burden of proof to demonstrate why that portion of the proposed Rule should not be adopted.

**TECHNICAL ISSUES**

**ISSUE 1:** Should the definition of a water system proposed as Rule 25-30.425(1)(a) in Order PSC-07-0469-NOR-WS be adopted as a proper definition for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the definition of a water system proposed as Rule 25-30.425(1)(a) in Order PSC-07-0469-NOR-WS should be adopted as a proper definition for a water treatment used and useful rule. (Redemann)

**ISSUE 2:** Should the definition of storage facilities proposed as Rule 25-30.425(1)(b) in Order PSC-07-0469-NOR-WS be adopted as a proper definition for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the definition of storage facilities proposed as Rule 25-30.425(1)(b) in Order PSC-07-0469-NOR-WS should be adopted as a proper definition for a water treatment used and useful rule. (Redemann)

**ISSUE 3:** Should the definition of peak demand for a water system proposed as Rule 25-30.425(1)(c) in Order PSC-07-0469-NOR-WS be adopted as a proper definition for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the definition of peak demand for a water system proposed as Rule 25-30.425(1)(c) in Order PSC-07-0469-NOR-WS should be adopted as a proper definition for a water treatment used and useful rule. (Redemann)

**ISSUE 4:** Should the definition of peak demand for storage proposed as Rule 25-30.425(1)(d) in Order PSC-07-0469-NOR-WS be adopted as a proper definition for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the definition of peak demand for storage proposed as Rule 25-30.425(1)(d) in Order PSC-07-0469-NOR-WS should be adopted as a proper definition for a water treatment used and useful rule. (Redemann)

**ISSUE 5:** Should the definition of excessive unaccounted for water proposed as Rule 25-30.425(1)(e) in Order PSC-07-0469-NOR-WS be adopted as a proper definition for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the definition of excessive unaccounted for water proposed as Rule 25-30.425(1)(e) in Order PSC-07-0469-NOR-WS should be adopted as a proper definition

for a water treatment used and useful rule. Alternatively, the proposed rule could be changed for clarification purposes to read "Excessive unaccounted for water (EUW) is unaccounted for water in excess of 10 percent of the amount produced." (Redemann)

**ISSUE 6:** Should the Commission's used and useful evaluation include a determination of prudence and consider economies of scale as proposed in Rule 25-30.425(2) in Order PSC-07-0469-NOR-WS and be adopted for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the Commission's used and useful evaluation should include a determination of prudence and consider economies of scale as proposed in Rule 25-30.425(2) in Order PSC-07-0469-NOR-WS and be adopted for a water treatment used and useful rule. Staff further agrees with OPC and the industry regarding moving the provisions in section (11) of the proposed rule to section (2). (Redemann)

**ISSUE 7:** Should alternative calculations for water treatment systems and storage facilities be allowed as proposed in Rule 25-30.425(3) in Order PSC-07-0469-NOR-WS and be adopted for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, alternative calculations for water treatment systems and storage facilities should be allowed as proposed in Rule 25-30.425(3) in Order PSC-07-0469-NOR-WS and be adopted for a water treatment used and useful rule. Staff further agrees with OPC's proposal to move alternatives and limiting factors found in sections (6) and (11) of the rule, such as service area restrictions, treatment capacity, and well draw down limitations, to section (3). (Redemann)

**ISSUE 8:** Should the conditions for considering a water treatment system 100% used and useful as proposed in Rule 25-30.425(4) in Order PSC-07-0469-NOR-WS be adopted for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the conditions for considering a water treatment system 100% used and useful as proposed in Rule 25-30.425(4) in Order PSC-07-0469-NOR-WS should be adopted for a water treatment used and useful rule.

**ISSUE 9:** Should the calculation of used and useful of a water treatment system as expressed in Rule 25-30.425(5) in Order PSC-07-0469-NOR-WS be adopted for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the calculation of used and useful of a water treatment system as expressed in Rule 25-30.425(5) in Order PSC-07-0469-NOR-WS should be adopted for a water treatment used and useful rule. (Redemann)

**ISSUE 10:** Should the definition of firm reliable capacity for various combinations of water treatment systems and storage facilities as proposed in Rule 25-30.425(6) in Order PSC-07-0469-NOR-WS be adopted as a proper definition for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the definition of firm reliable capacity for various combinations of water treatment systems and storage facilities as proposed in Rule 25-30.425(6) in Order PSC-07-0469-NOR-WS should be adopted as a proper definition for a water treatment used and useful rule. However, staff agrees with OPC's proposal to move alternatives and limiting factors found in sections (6) and (11) of the rule, such as service area restrictions, treatment capacity, and well draw down limitations, to section (3). (Redemann)

**ISSUE 11:** Should the basis for expressing peak demand as proposed in Rule 25-30.425(7) in Order PSC-07-0469-NOR-WS be adopted for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the basis for expressing peak demand as proposed in Rule 25-30.425(7) in Order PSC-07-0469-NOR-WS should be adopted for a water treatment used and useful rule. However, staff agrees that Rule 25-30.4325(7)(a)(2) and (7)(b)(2) could be changed to reflect the use of a maximum month instead of a 30 day period for determining a peak day.

**ISSUE 12:** Should the calculation of used and useful for storage as proposed in Rule 25-30.425(8) in Order PSC-07-0469-NOR-WS be adopted for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the calculation of used and useful for storage as proposed in Rule 25-30.425(8) in Order PSC-07-0469-NOR-WS should be adopted for a water treatment used and useful rule.

**ISSUE 13:** Should the definitions of usable storage as proposed in Rule 25-30.425(9) in Order PSC-07-0469-NOR-WS be adopted as proper definitions for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the definitions of usable storage as proposed in Rule 25-30.425(9) in Order PSC-07-0469-NOR-WS should be adopted as proper definitions for a water treatment used and useful rule.

**ISSUE 14:** Should the method of determining adjustments to plant and operating expenses as proposed in Rule 25-30.425(10) in Order PSC-07-0469-NOR-WS be adopted for a water treatment used and useful rule?

**STAFF'S POSITION:** Yes, the method of determining adjustments to plant and operating expenses as proposed in Rule 25-30.425(10) in Order PSC-07-0469-NOR-WS should be adopted for a water treatment used and useful rule.

**ISSUE 15:** Should the Commission's consideration of other relevant factors as proposed in Rule 25-30.425(11) in Order PSC-07-0469-NOR-WS be adopted for a water treatment used and useful rule?

**STAFF'S POSITION:** No, staff agrees with OPC and the industry regarding moving the provisions in section (11) of the proposed rule to section (2). (Redemann)

e. Stipulated Issues

Staff is not aware of any stipulated issues at this time.

f. Pending Motions

There are no pending motions at this time.

g. Pending Confidentiality Claims or Requests

There are no pending confidentiality claims or requests at this time.

h. Objections to Witness Qualifications as an Expert

There are no objections to witness qualifications as an expert.

i. Compliance with Order No. PSC-07-0777-PCO-WS

Staff has complied with all requirements of the Order Establishing Procedure entered in this docket.

Respectfully submitted this 17<sup>th</sup> day of December, 2007.

  
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed adoption of Rule 25-30.4325, DOCKET NO. 070183-WS  
F.A.C., Water Treatment Plant Used and Useful  
Calculations DATED: December 17, 2007


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Staff's Prehearing Statement was furnished to the following, by electronic and U.S. Mail, on this 17<sup>th</sup> day of December, 2007.

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