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DIVISION OF APPEALS
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DIRECTOR
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ORIGINAL

Public Service Commission

August 17, 1998

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

Re: Docket No. 980903-WS - Proposed Amendment to Rule 25-30.320, F.A.C., Refusal or Discontinuance of Service

Dear Mr. Webb:

Enclosed are an original and two copies of the following materials concerning the above referenced proposed rule:

1. A copy of the rule.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rule.
4. A federal standards statement.
5. A statement of estimated regulatory costs.

If there are any questions with respect to this rule, please do not hesitate to call on me.

Sincerely,

Christiana T. Moore
Christiana T. Moore
Associate General Counsel

Enclosures
cc: Division of Records & Reporting

ACK _____
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08784 AUG 17 98

FILED IN RECORDS/REPORTING

1 25-30.320 Refusal or Discontinuance of Service.

2 (1) Until adequate facilities can be provided, a utility
3 may refuse to serve an applicant if, in the best judgment of the
4 utility, it does not have adequate facilities, or supply to
5 render the service applied for, or if the service is of character
6 that is likely to affect unfavorably service to other customers.

7 (2) As applicable, the utility may refuse or discontinue
8 service under the following conditions provided that, unless
9 otherwise stated, the customer shall be given written notice and
10 allowed a reasonable time to comply with any rule or remedy any
11 deficiency:

12 (a) For noncompliance with or violation of any state or
13 municipal law or regulation governing such utility service.

14 (b) For failure or refusal of the customer to correct any
15 deficiencies or defects in his piping or equipment which are
16 reported to him by the utility.

17 (c) For the use of utility service for any other property
18 or purpose than that described in the application.

19 (d) For failure or refusal to provide adequate space for
20 the meter or service equipment of the utility.

21 (e) For failure or refusal to provide the utility with a
22 deposit to insure payment of bills in accordance with the
23 utility's regulation.

24 (f) For neglect or refusal to provide reasonable access to
25 the utility for the purpose of reading meters or inspection and

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~~struck through~~ type are deletions from existing law.

1 maintenance of equipment owned by the utility.

2 (g) For nonpayment of bills, including nonpayment of
3 municipal sewer service under circumstances specifically provided
4 in section 159.18(2), F.S., or noncompliance with the utility's
5 rules and regulations in connection with the same or a different
6 type or a different class of utility service furnished to the
7 same customer at the same premises by the same or affiliated
8 utility only after there has been a diligent attempt to have the
9 customer comply, including at least 5 working days' written
10 notice to the customers. Such notice shall be separate and apart
11 from any bill for service. For purposes of this subsection,
12 "working day" means any day on which the utility's office is open
13 and the U.S. Mail is delivered. A utility shall not, however,
14 refuse or discontinue service for nonpayment of a dishonored
15 check service charge imposed by the utility.

16 (h) Without notice in the event of a condition known to the
17 utility to be hazardous.

18 (i) Without notice in the event of tampering with
19 regulators, valves, piping, meter or other facilities furnished
20 and owned by the utility.

21 (j) Without notice in the event of unauthorized or
22 fraudulent use of service. Whenever service is discontinued for
23 fraudulent use of such service, the utility, before restoring
24 service, may require the customer to make at his own expense all
25 changes in piping or equipment necessary to eliminate illegal use

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1 and to pay an amount reasonably estimated as the deficiency in
2 revenue resulting from such fraudulent use. Service shall not be
3 discontinued if, prior to the arrival of the utility to
4 discontinue service, the customer has:

- 5 1. paid for all fraudulent use of service;
- 6 2. demonstrated the fraudulent use has ceased;
- 7 3. paid all other applicable fees and charges; and
- 8 4. the service condition allowing fraudulent use of
9 service has been corrected.

10 (3) Service shall be restored when cause for discontinuance
11 has been satisfactorily adjusted.

12 (4) In case of refusal to establish service, or whenever
13 service is discontinued, the utility shall notify the applicant
14 or customer in writing of the reason for such refusal or
15 discontinuance. In all instances involving refusal or
16 discontinuance of service the utility shall advise in its notice
17 that persons dissatisfied with the utility's decision to refuse
18 or discontinue service may register their complaint with the
19 utility's Customer Relations Personnel and to the Florida Public
20 Service Commission at 1-800-342-3552, which is a toll free
21 number.

22 (5) The following shall not constitute sufficient cause for
23 refusal or discontinuance of service to an applicant or customer:

24 (a) Delinquency in payment for service by a previous
25 occupant of the premises unless the current applicant or customer

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1 occupied the premises at the time the delinquency occurred and
2 the previous customer continues to occupy the premises and such
3 previous customer will receive benefit from such service.

4 (b) Failure to pay for appliances or equipment purchased
5 from the utility.

6 (c) Failure to pay for a different class of service, except
7 where two or more classes of service are rendered to the same
8 customer at the same premises.

9 (d) Failure to pay the bill of another customer as
10 guarantor thereof.

11 (e) Failure to pay a dishonored check service charge
12 imposed by the utility.

13 (6) No utility shall discontinue service to any customer,
14 between 12:00 noon on a Friday and 8:00 a.m. the following Monday
15 or between 12:00 noon on the day preceding a public holiday and
16 8:00 a.m. the next working day; provided, however, that this
17 prohibition shall not apply when:

18 (a) Discontinuance is requested by or agreed to by the
19 customer; or

20 (b) A hazardous condition exists; or

21 (c) Meters or other utility-owned facilities have been
22 tampered with; or

23 (d) Service is being obtained fraudulently or is being used
24 for unlawful purposes.

25 Specific Authority: 350.127(2), 367.121, F.S.

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~~struck-through~~ type are deletions from existing law.

1 | Law Implemented: 367.081, 367.111, 367.121, F.S.
2 | History: Amended 9/12/74, 4/3/80, formerly 25-10.74, 25-10.074,
3 | Amended 11/9/86, 1/1/91, 1/11/93, 11/30/93.

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FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 980903-WS

RULE TITLE:

RULE NO.:

Refusal or Discontinuance of Service 25-30.320

PURPOSE AND EFFECT: To amend the current rule to authorize water utilities under Commission jurisdiction to discontinue service for nonpayment of bills for municipal sewer service under the circumstances specifically provided in section 159.10(2), Florida Statutes.

SUMMARY: Revises Rule 25-30.320 to authorize a utility to discontinue water service for nonpayment of municipal sewer service.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The recommended rule change may reduce costs to utilities and the Commission by eliminating the need for proceedings to waive the rule. Because invoking this rule amendment is predicated on a voluntary agreement between the utility and the municipality, neither party is expected to incur any additional cost in complying with the rule amendment. Billing and collection agreements could result in an additional source of income for the utility and could lower the cost of billing, collection and discontinuance of service for the municipality.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing

within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 367.121, FS.

LAW IMPLEMENTED: 367.081, 367.111, 367.121, FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

HEARING: IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE THAT WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.320 Refusal or Discontinuance of Service.

(1) - (2)(f) No Change.

(g) For nonpayment of bills, including nonpayment of municipal sewer service under circumstances specifically provided in section 159.18(2), F.S., or noncompliance with the utility's rules and regulations in connection with the same or a different type or a different class of utility service furnished to the same customer at the same premises by the same or affiliated utility only after there has been a diligent attempt to have the customer comply, including at least 5 working days' written notice to the customers. Such notice shall be separate and apart

from any bill for service. For purposes of this subsection, "working day" means any day on which the utility's office is open and the U.S. Mail is delivered. A utility shall not, however, refuse or discontinue service for nonpayment of a dishonored check service charge imposed by the utility.

(h) - (6) (d) No Change.

Specific Authority: 350.127(2), 367.121, F.S.

Law Implemented: 367.081, 367.111, 367.121, F.S.

History: Amended 9/12/74, 4/3/80, formerly 25-10.74, 25-10.074, Amended 11-9-86, 1-1-91, 1-11-93, 11-30-93.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ralph Von Fossen

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:

Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: August 4, 1998

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

Volume 24, Number 19, May 8, 1998

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least five calendar days prior to

the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

**STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE**

Section 159.18(2), Florida Statutes, authorizes a municipality to enter into a contract with a utility for the utility to discontinue water service to a customer who is also served by the municipal sewer service if the customer fails to pay for the sewer service. The Commission's rule governing discontinuance of service, however, does not permit a utility to discontinue water service for this reason.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.

MEMORANDUM

RECEIVED

JUN 26 1998

June 26, 1998

General Counsel's Office
Florida Public Service Commission

TO: DIVISION OF APPEALS (MOORE)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *icr*

SUBJECT: PROPOSED AMENDMENTS TO RULE 25-30.320, F.A.C., REFUSAL OR DISCONTINUANCE OF SERVICE

SUMMARY OF THE RULE

Presently, subsections (a) through (j) of Rule 25-30.320(2), F.A.C., enumerate the conditions under which a water or wastewater utility may refuse or discontinue service. Subsection (g) permits a utility to discontinue service for nonpayment of bills in connection with the same or a different type or class of utility service furnished to the same customer at the same premises by the same or affiliated utility. The proposed amendment to subsection (g) would add a provision permitting the discontinuance of service for nonpayment of municipal sewer service under the circumstances specifically provided in Section 159.18(2), F.S. According to Section 159.18(2), F.S., a municipality may enter into a contract with a person, public or private corporation, board or other body which supplies water to any premises served by the municipal sewer system for the shutting off and discontinuing of the supply of water to such premises for nonpayment of charges for sewer services or facilities of the municipality. The regulated water utility would be required to provide adequate notice to the customer in compliance with existing rules governing discontinuance of service.

ESTIMATED NUMBER AND DESCRIPTION
OF INDIVIDUALS AND ENTITIES IMPACTED

There will be a potential impact on regulated water utilities and their customers who receive sewer service from a municipality. At present, there are 217 regulated water utilities in Florida.

Staff surveyed Class A and B water utilities to determine whether any of their customers receive sewer service from a municipality. Six respondents have water customers who receive municipal sewer service. In total, these six water companies serve approximately 37,000 customers, though only a portion of those customers receive municipal sewer service. Two of the six utilities already have billing and collection agreements with municipalities, two were considering such agreements, and two had no plans to enter into such agreements at present. It is not known how many Class C water utilities may have customers who receive sewer service from a municipality.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

Adoption of the proposed rule amendment could reduce costs to the Commission because staff and commissioners would no longer have to spend time on docketed requests for waivers of the rule filed by water utility companies. Municipalities which only provide sewer service must presently dig up or plug sewer lines in order to discontinue service to a non-paying customer. Municipalities may be able to reduce costs for discontinuing service, and achieve more efficient operations by entering into contracts with water utilities to effectively discontinue sewer service through the interruption of water service. The rule is not expected to result in any direct costs to this agency or other state or local government entities.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

The decision to enter into a contract is voluntary for both the water utility company and the municipality. Neither party is expected to incur any additional costs to comply with the proposed rule amendment. Water utilities would avoid the costs associated with having to file a formal request for a waiver of Rule 25-30.320(2)(g) when they wish to enter into such contracts with municipalities. Water utilities could gain an additional source of revenue from billing and collection contracts with municipalities. Municipalities should have fewer late or nonpayments, and agreements with a water utility to discontinue water service could be less costly than other methods of discontinuing sewer service.

Customers who do not pay their municipal sewer bills would be subject to having their water service disconnected if the proposed amendment becomes effective. However, such customers are already subject to having sewer service discontinued by the municipality if they fail to pay their bill. Discontinuing water service effectively discontinues sewer service since sewer service cannot work without water.

IMPACT ON SMALL BUSINESS, SMALL CITIES, OR SMALL COUNTIES

The proposed rules are not expected to have a negative or disproportionate impact on small businesses, small cities, or small counties. Regulated water utilities which also meet the statutory definition of a small business (most Class C utilities), could enter into billing and collection agreements with municipalities. Such an agreement could provide an additional source of revenue to the utility. Small cities or counties could benefit if entering into a contract with a regulated utility lowers the costs of billing, collection or discontinuance of service and/or results in more efficient operations.

REASONABLE ALTERNATIVE METHODS

No reasonable alternative methods are known that would substantially accomplish the objective of the law being implemented (Section 159.18, F.S.). The alternative of not adopting the proposed amendment would allow the rule to remain inconsistent with the statute (as the statute has been interpreted by the Commission in Orders PSC-97-1362-FOF-WU and PSC-98-0685-FOF-WS).

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