

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

OCT 23 AM 10:31

DATE: October 24, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYO)

FROM: OFFICE OF THE GENERAL COUNSEL (MOORE, JAEGER) *GA*
DIVISION OF ECONOMIC REGULATION (WILLIS, HEWITT) *JDJ*

RE: DOCKET NO. 000154-SU - PROPOSED RULE 25-30.432, F.A.C.,
WASTEWATER TREATMENT PLANT USED AND USEFUL CALCULATIONS.

AGENDA: 11/5/02 - REGULAR AGENDA - RULE ADOPTION - PARTICIPATION
IS LIMITED TO COMMISSIONERS AND STAFF

RULE STATUS: ADOPTION SHOULD NOT BE DEFERRED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\GCL\WP\000154-2.RCM

CASE BACKGROUND

On July 9, 2002, the Commission voted to propose Rule 25-30.432, Florida Administrative Code, codifying its method of determining the used and useful portion of a utility's wastewater treatment plant. The Notice of Rulemaking was published in the July 26, 2002, issue of the Florida Administrative Weekly. Before the rule was filed for adoption, the Joint Administrative Procedures Committee staff submitted comments.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission adopt a change to proposed Rule 25-30.432, Florida Administrative Code, Wastewater Treatment Plant Used and Useful Calculations?

RECOMMENDATION: Yes. The Commission should adopt Rule 25-30.432, Florida Administrative Code, with a change to address comments submitted by the Joint Administrative Procedures Committee staff.

STAFF ANALYSIS: Proposed Rule 25-30.432 provides that the flow data used in the numerator of the calculation of the used and useful percentage of a wastewater treatment plant shall be the same period or basis (such as annual average daily flow, three-month average daily flow, or maximum month average daily flow) as the period or basis stated for the plant capacity on the most recent operating permit issued by DEP. The denominator of the calculation is the DEP permitted capacity. The load or demand the customers place on the plant (stated in the numerator) compared to the permitted treatment capacity of the plant (stated in the denominator) results in a percentage that forms the basis for the Commission's used and useful determination.

The proposed rule also recognizes that there are factors in addition to current customer demand or load that will be considered by the Commission to determine used and useful. Several factors are listed, and the rule is worded so as to allow for other circumstances that may arise. In addition, the proposed rule specifically provides for cases where the capacity of a plant is limited by an individual component. E.g., In re: Application for approval of staff-assisted rate case in Martin County by Laniger Enterprises, Order No. PSC-01-1574-PAA-WS issued July 30, 2001, in Docket No. 000584-WS. In such cases, the rule language authorizes the Commission to calculate a used and useful percentage for each individual component of the treatment plant using the actual capacity of the component in the denominator. Joint Administrative Procedures Committee (JAPC) staff objected to the use of the authorizing term "may" in this section and the absence of criteria to be applied in determining whether a used and useful percentage is calculated for individual components. Commission staff submitted a suggested change to JAPC that resolved the issue.

A copy of the rule as the Commission proposed it, coded to show the changes staff recommends, is attached. It deletes the

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objectionable section and adds to the list of factors the Commission will consider: "whether there are differences between the actual capacities of the individual components of the wastewater treatment plant and the permitted capacity of the plant".

ISSUE 2: Should the rule be filed for adoption with the Secretary of State and the docket be closed?

RECOMMENDATION: Yes, a Notice of Change should be published in the Florida Administrative Weekly and the rule filed with the Secretary of State.

STAFF ANALYSIS: If the Commission approves the changes to Rule 25-30.432, a notice of change must be published. After the notice is published or if the rule is adopted without changes, the rule may be filed for adoption with the Secretary of State and the docket may then be closed.

Attachments:

A - Recommended Rule 25-30.432

CTM/

25-30.432 Wastewater Treatment Plant Used and Useful

Calculations. The flow data to be used in the numerator of the equation for calculating the used and useful percentage of a wastewater treatment plant shall be the same period or basis (such as annual average daily flow, three-month average daily flow, maximum month average daily flow) as the period or basis stated for the permitted capacity on the most recent operating permit issued by the Florida Department of Environmental Protection (DEP). The DEP permitted capacity shall be used in the denominator of the equation. ~~If there are differences between the capacities of the individual components of the wastewater treatment plant, the Commission may calculate a used and useful percentage for each individual component of the treatment plant using the actual capacity of the component in the denominator.~~ In determining the used and useful amount, the Commission will also consider other factors such as the allowance for growth pursuant to section 367.081(2)(a)2., F.S., infiltration and inflow, the extent to which the area served by the plant is built out, whether the permitted capacity differs from the design capacity, whether there are differences between the actual capacities of the individual components of the wastewater treatment plant and the permitted capacity of the plant, and whether flows have decreased due to conservation or a reduction in the number of customers. This rule does not apply to reuse projects pursuant to section 367.0817(3), F.S., or

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 investment for environmental compliance pursuant to section
2 367.081(2)(a)2.c., F.S.
3 Specific Authority: 350.127(2), 367.121(1)(f), FS.
4 Law Implemented: 367.081(2), FS.
5 History: New .
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