

**PROPOSED NEW AND AMENDED RULES
FOR WATER AND WASTEWATER
DOCKET NUMBER 911082-WS
COMMENTS OF
BILLIE B. MESSER
ON BEHALF OF THE STAFF**

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DIRECT COMMENTS OF BILLIE B. MESSER

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2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Billie B. Messer. My business address is 101 East
4 Gaines Street, Tallahassee, Florida 32399-0873.

5 **Q. WHAT IS THE PURPOSE OF YOUR COMMENTS?**

6 A. The purpose of my comments is to present staff's position on the
7 proposed changes to Rules 25-30.135, 25-30.320, 25-30.335, 25-
8 30.360, 25-30.437(7), 25-30.515 and 25-30.565. I am also
9 testifying on the new proposed rules 25-30.4385, 25-30.460, 25-
10 30.465, 25-30.470 and 25-30.475.

11 **Q. PLEASE DISCUSS THE PROPOSED CHANGES TO RULE 25-30.135(3),**
12 **REGARDING THE INFORMATION TO BE MAINTAINED AT UTILITY BUSINESS**
13 **OFFICES?**

14 A. This is an expansion and clarification of an existing rule which
15 required utilities to adopt and comply with their tariffs which
16 are to be officially maintained by the Commission. The rule also
17 specified that the utility should maintain particular documents
18 at its business office to be available for customer inspection.
19 The changes to the rule in section 3 focus on exactly where the
20 documents are to be made available, specifically which documents
21 are to be included, and who is responsible for providing these
22 documents.

23 The rule specifies that the information must be made available at
24 the utility's main in-state business office. Many of the larger
25 utilities have several offices located throughout the state and

1 it was believed that requiring all of the documents would be too
2 cumbersome in all locations. The rule further specifies that a
3 current copy of rules is required and expands on the specific
4 chapters to be included at the office which are those discussing
5 tariffs, hearings and other protest procedures. The old rule
6 simply specified the sections dealing with technical guidelines
7 of the water and wastewater industry. Furthermore, the rule is
8 expanded to include the statute relating to the industry, current
9 tariffs and developer agreements. Finally, the rule specifies that
10 the Commission is responsible for providing current copies of the
11 rules and statute to each utility.

12 It is believed that with increased customer awareness and interest
13 in regulatory proceedings customers should be able to have access
14 to not just the utility's tariffs, but other information that will
15 provide answers to their questions without traveling to
16 Tallahassee to obtain it. The rule specifies additional
17 information to be maintained yet limits it to the main business
18 office and requires the Commission to be responsible for
19 delivering the current copies rather than forcing the utilities
20 to bear that expense.

21 Q. WHAT IS THE PURPOSE OF THE CHANGES TO RULE 25-30.320 ON
22 DISCONTINUANCE OF SERVICE?

23 A. The addition to section 2 and 2(j) of the existing rule clarifies
24 the conditions under which a utility may not disconnect a
25 customer. Section 2 specifies that customers receive written

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notice of various conditions that may allow the utility to refuse or discontinue service. Changes to section 2(j) clarify when the utility may disconnect service without notice. It provides for the situation where the company is enroute to disconnect service, but upon arriving at the customer's house discovers that all fraudulent use has been terminated and all related issues have been resolved. Specifically, the customer has paid for all fraudulent use of service, has demonstrated that fraudulent use has ceased, has paid any other fees or charges and has corrected the condition allowing the fraudulent use of service.

The reason for this clarification is that some utilities were asserting authority to disconnect customers even when all issues surrounding the fraudulent use of service had been resolved prior to the utility officially arriving to disconnect service.

Q. PLEASE DISCUSS THE PURPOSE FOR THE PROPOSED CHANGES TO RULE 25-30.335 CONCERNING CUSTOMER BILLING?

A. This revised rule simplifies the information specified by rule to be included in a customer's bill such as the utility clearly stating the beginning and ending meter reading on the bill. It also requires a statement of any late payment charge due. These changes are in section 1. A new section 9 is added which specifically details the utility's right to charge a base facility charge even when a customer does not have any usage. However, this rule does not apply if the utility has an approved "vacation rate". Other minor text changes are made to number references

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throughout the rule.

The Commission has made a specific effort over the last several years to require all utilities to modify their billing formats so that they are "user friendly". This has been true in the water and wastewater industry as well. One charge that has been recently adopted by this industry is a late payment charge. This charge has been utilized in the communications industry, but not until recently has it been used in the water and wastewater industry. The rule brings itself up to date by modifying the bill format and requiring a line specifying a late charge after a certain date, if applicable.

The rule also codifies the Commission's practice of charging the base facility charge as a monthly minimum charge. The base charge is designed to recover the fixed expenses of the utility which are incurred whether or not the customer uses water or wastewater service. As such, it should be recovered from all customers regardless of whether they are incurring any actual usage. Most tariffs specify the base facility charge as the minimum amount due. A few older tariffs that have not been updated to the base facility and gallonage charge structure have a reduced rate called a "vacation rate". The rule acknowledges these situations and provides for the application of this rate.

Q. WHAT IS THE PURPOSE OF THE PROPOSED CHANGES TO RULE 25-30.360 CONCERNING THE TIMING OF REFUNDS AND THE DISPOSITION OF ANY UNCLAIMED REFUNDS?

1 | A. The proposed changes modify the existing rule to codify Commission
2 | practice and eliminate time consuming steps in the current
3 | process. There are two substantive changes in this rule. The
4 | first is in section 2 and deals with the effect of a Motion for
5 | Reconsideration on the timing of a refund. The Commission has
6 | recognized that the practical effect of a Petition for
7 | Reconsideration is to extend the time period over which a utility
8 | performs a refund because the petition pushes the final rate
9 | decision out to an unknown future date. Petitions for
10 | Reconsideration must be heard and decided by the Commission.
11 | Parties may then file an appeal of that decision. The utility can
12 | not implement a refund until all parties have satisfied their
13 | legal due process rights and the utility has approved final rates
14 | to use in calculating the refund.

15 | The rule change acknowledges the practical effect of a Petition
16 | for Reconsideration. The customer is not harmed because interest
17 | continues to accrue on the rates subject to refund which are
18 | charged through the reconsideration period.

19 | The second change in section 8 of the rule modifies the existing
20 | provision that the company shall suggest a method for the
21 | disposition of any unclaimed refunds. Instead, it states that
22 | unclaimed refunds will automatically be credited to the
23 | Contribution-in-Aid-of-Construction (CIAC) account. The old rule
24 | requires an additional step of going to Agenda. The Commission
25 | has routinely approved crediting any unclaimed refunds to CIAC.

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This revision codifies this practice and streamlines the process. Finally, the rule contains minor text changes which modify number references.

Q. PLEASE DISCUSS THE CHANGE TO SECTION 7 IN RULE 25-30.437 CONCERNING INFORMATION REQUIRED TO BE FILED IN A RATE INCREASE APPLICATION?

A. Section 7 of Rule 25-30.437 codifies the Commission's practice of using the base facility and gallonage charge rate structure as discussed in Rule 25-30.335. It also specifies that the rates are established with the 5/8" x 3/4" meter size as the starting point. These criteria are included to affirm the Commission's practice, but the rule also allows a utility to propose another format as long as it is adequately justified by the applicant.

Q. WHAT IS THE PURPOSE OF NEW RULE 25-30.4385 REQUIRING ADDITIONAL RATE INFORMATION IN AN APPLICATION FOR RATE INCREASE?

A. This new rule has been proposed to clarify for the water and wastewater industries the necessity of including revised tariff sheets for each service classification in which a change is proposed with the exception of basic service rates. Nowhere in the water and wastewater rules was there a specific requirement that tariffs should be included with MFRs in rate cases. This has been remedied unofficially by specifying this requirement in test year approval letters. The staff believes that the actual proposed tariffs are useful in cross checking the MFRs as well as clarifying any potential policy changes the utility might be

1 proposing in their filing.

2 Basic service rates were excluded from this requirement since they
3 generally change from the filed rates which are based on the filed
4 revenue requirement. After policy rate structure issues are
5 decided by the Commission in addition to the revised revenue
6 requirement, final rates can be determined and are specified in
7 the final order.

8 Q. PLEASE EXPLAIN THE PURPOSE OF NEW RULE 25-30.460 REGARDING
9 MISCELLANEOUS SERVICE CHARGES?

10 A. The Commission allows utilities to implement miscellaneous service
11 charges as specified in second revised Staff Advisory Bulletin No.
12 13 (SAB No. 13). The Bulletin also specifies the level of charge
13 that is considered appropriate for most cases. These charges may
14 be approved administratively by staff as long as they conform with
15 second revised SAB No. 13.

16 This rule codifies the policy and purpose for miscellaneous
17 service charges without specifying the exact amount. The rule
18 defines miscellaneous service charges as rates for initial
19 connections, normal reconnections, violation reconnections, and
20 premises visit charges. The rule specifies that the actual rates
21 for these services are referenced in the utility's tariff.

22 The rule also codifies the Commission practice of allowing a
23 charge for "after hours" work requested by the customer. These
24 charges are all designed to allow the utility to recover expenses
25 incurred from the cost causer, rather than from the general body

1 of rate payers.

2 Q. PLEASE DISCUSS THE PURPOSE OF NEW RULE 25-30.465 CONCERNING THE
3 RATE FOR PRIVATE FIRE PROTECTION?

4 A. The Commission has used the approach of setting rates for private
5 fire protection at 1/3 the base facility charge for approximately
6 the past 19 years. The foundation for this charge is based on the
7 idea that a private fire protection system benefits an individual
8 property or complex and represents a personal service not enjoyed
9 by the community in general.

10 Investor-owned utilities are placed in a unique situation of
11 having limited financial resources to draw from for recovering
12 standard operating expenses. Customers are divided into various
13 classes of service in order to determine what will be their pro
14 rata share of cost recovery through rates. The Commission has
15 historically considered the provision of fire protection to be a
16 type of class of service. Utilities that provide fire protection
17 must have the readiness to serve - either for public or private
18 fire protection. Generally, the costs involved in providing
19 public fire protection are identified and aggregated into the
20 general revenue requirement of the utility. These costs are then
21 spread over the general body of rate payers through their monthly
22 service rates. Private fire protection is another type or class
23 of service and it has been this Commission's philosophy to require
24 a contribution toward the expenses incurred for providing this
25 potential instantaneous demand by the utility through a separate

1 annual or monthly private fire protection rate.

2 Relatively speaking, only a minor portion of the water consumed
3 annually in a typical water system is used in fire fighting. The
4 important consideration is the ability to provide large flows of
5 water for short durations at adequate pressures and within reach
6 of every fire hazard. The fire protection aspect of water supply
7 is almost entirely one of readiness to serve. The Commission's
8 philosophy has been that any water system that provides fire
9 protection capacity over and above peak-hour consumptive needs
10 should be reimbursed for the cost of this excess capacity, which
11 it cannot use for the sale of revenue producing water.

12 For private fire protection rate making purposes, it is believed
13 that the actual potential demand of a specific customer is not a
14 fair measure of his responsibility for utility investment. Past
15 engineering calculations determined that usually the demand would
16 not be over one-third of the potential of a given size connection.
17 The limiting factor in providing the service would be the size of
18 the connection rather than the number of connected fixtures.
19 Therefore, the Commission has calculated its rates at 1/3 the base
20 facility charge of the service rates of comparable meter sizes.

21 Q. COULD RATES FOR PRIVATE FIRE PROTECTION BE CALCULATED IN ANY OTHER
22 MANNER THAT WOULD STILL PROVIDE AN APPROPRIATE LEVEL OF
23 CONTRIBUTION TO THE UTILITY FOR THE PROVISION OF THIS SERVICE?

24 A. Yes. Another approach for ratemaking could be appropriate which
25 recognizes the potential demand on the utility, but also

1 recognizes the benefits to the utility of installing sprinkler
2 systems in terms of reducing overall maximum risk to and potential
3 water flow from the utility.

4 There is no disagreement on the desirability and effectiveness of
5 installing private fire service systems. Fires are relatively
6 easy to control with properly installed and maintained sprinkler
7 systems. Plus, sprinkler systems are often required by
8 municipalities in building codes because of the difficulty of
9 bringing a fire under control from the outside and the increased
10 expenses that would be incurred by the city or county to fight a
11 fire in that manner. The major benefit of private fire
12 protection, which sets it uniquely apart from public fire
13 protection, is that it is essentially instantaneous.

14 As stated earlier, the provision of fire protection is primarily
15 a readiness to serve by the utility. This readiness to serve
16 involves certain general plant expenses as well as other
17 operational expenses such as pumping and testing which should be
18 recovered from those receiving the service. Rather than focusing
19 on trying to develop a detailed cost of service, the charge could
20 be based upon potential fire flow demand. The Insurance Services
21 Office (ISO) requires two hours capacity for flows under 2500
22 gallons per minute. Two hours is 1/12 of a day and represents a
23 demand factor of 1/12 of the demand that a connection can place
24 upon a system in a 24 hour day. Systems are generally rated in
25 gallons per day, therefore, this premise lends itself to charging

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for private fire protection at 1/12 the base facility charge (BFC) for the size connection providing the private fire protection service. This proposed change to the new rule is shown in the attached Exhibit BBM-1.

The use of the 1/12 BFC method generates a charge which is closer to the premium savings that customers may receive from having a sprinkler system without penalizing them through rates that may exceed the insurance benefit received for implementing a sprinkler program. In addition, it is still related to the demand created on the utility because it falls out of the demand assumption of two hours of fire flow.

The following example helps demonstrate this concept. The ISO office was contacted and provided actual case data for a multi-tenant shopping center located in a city that had a protection class of five. The shopping center was in construction class four, which is masonry, noncombustible construction and given a 70 (out of 100) point sprinkler grading. The advisory rate that the ISO would provide to insurance companies on this center without a sprinkler system is .322/\$100 of value. If the building was insured for \$100,000, the annual premium would be \$332. The premium with a sprinkler system is .160/\$100 or an annual premium of \$160. The difference is \$172 per year or \$14.33 per month, which is the result of having sprinkler protection. Using the standard 1/3 BFC approach, the charge for a 6" meter where the rate for a 5/8" x 3/4" meter is \$5.00 per month would be

1 \$83.33/month ($\$5.00 \times 50 \text{ ERCs} \times 1/3$). Using the 1/12 BFC
2 approach, the charge would be \$20.83/month ($\$5.00 \times 50 \text{ ERCs} \times$
3 $1/12$). The 1/12 BFC approach yields a charge that is more closely
4 aligned to the actual savings received by the customer for having
5 installed sprinkler systems than does the monthly rate developed
6 under the traditional 1/3 BFC approach.

7 Q. WHAT IS THE PURPOSE OF NEW RULE 25-30.470 ON THE CALCULATION OF
8 RATE REDUCTION AFTER RATE CASE EXPENSE IS AMORTIZED?

9 A. This new rule codifies the statutory requirement in 367.0816, F.S.
10 to reduce rates after rate case expense is amortized after four
11 years. It specifies the methodology to be used in calculating the
12 rate reduction and also specifies that tariff sheets implementing
13 the rate reduction shall be filed no later than one month before
14 the end of the fourth year.

15 Since the passage of the statute, the Commission has made this an
16 issue in rate cases specifying the methodology and the amount of
17 actual rate reduction. This new rule codifies this formula and
18 the requirement of revised tariff sheets before the end of the
19 fourth year.

20 Q. WHAT IS THE PURPOSE OF NEW RULE 25-30.475 ON TARIFF EFFECTIVE
21 DATES?

22 A. This is a new rule that deals with standardizing the effective
23 dates of rates for recurring and non-recurring rates and charges.
24 It also specifically links the approval of tariffs to their
25 consistency with the Commission decision, appropriate customer

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notice and any required security.

The Commission has traditionally used language that allowed rates to become effective for meters read on or after 30 days from the tariff stamped approved effective date. This language was initiated during the time when the water and wastewater industry was mainly comprised of small utilities with unsophisticated billing practices. Most utilities had one billing cycle. While a utility could receive revenues earlier through prorating the new rates or charges, the actual process of prorating was considered burdensome. The old effective date language was designed to allow the rates to become effective at the beginning of the billing cycle thus, making it "easier" for the utility to implement the new rates.

The nature of the water and wastewater industry has changed. The overall sophistication of the companies has increased along with the growth in customers. Now, instead of one billing cycle, many utilities have multi-cycle billing with groups of customers billed in several cycles. The multi-cycle allows the billing to proceed in a staggered manner with one set of customers billed in cycle one, another set of customers billed in cycle two, etc. Using the "old" 30 day language actually created an anomaly in implementing rates because a new rate would then be billed in a staggered manner across different billing cycles (and customer groups) at different times. This is contrary to the objective of implementing a rate in a non-discriminatory, uniform fashion. The

1 new language allows the charge for recurring rates to be started
2 at the same point in time for all customers.

3 The new language also deals with effective dates of non-recurring
4 charges such as service availability, guaranteed revenues,
5 allowance for funds prudently invested and miscellaneous services.
6 It standardizes the language to be consistent with effective dates
7 of recurring charges, but specifies for service rendered or
8 connections made which makes the language applicable to non-
9 recurring charges.

10 Both sets of effective date language also unify the concept of
11 stamped approval date and effective date. The stamped approval
12 date is a date on the back of the tariff. With the old 30-day
13 language, the effective date on the front of the tariff was
14 different than the stamped approval date on the back. This new
15 language eliminates the timing difference and makes the two dates
16 consistent and easier to understand for the industry.

17 Q. PLEASE EXPLAIN THE CHANGES MADE TO RULE 25-30.515 CONCERNING
18 DEFINITIONS?

19 A. Changes to this existing rule are clarifications to reflect the
20 current reference to the industry and also Commission practice.
21 Section 2 provides text changes to update the reference to the
22 industry from sewer to wastewater. Section 3 modifies the
23 definition of CIAC to list some examples, but not imply that those
24 are the only items to be considered CIAC. Section 9 clarifies the
25 definition of Guaranteed Revenues to be a charge, and expands it

1 to explain when the charge starts and stops. Finally, a new
2 definition is included as section 21 for Plant Capacity Charge.
3 This is a standard charge used in the industry, but omitted as an
4 oversight in the initial development of this rule.

5 Q. PLEASE EXPLAIN THE CHANGES TO RULE 25-30.565 CONCERNING SERVICE
6 AVAILABILITY?

7 A. The substantive changes to this existing rule modify the notice
8 requirements, require a filing fee and require the filing of
9 tariffs. Other minor corrections are made throughout the rule
10 that clarify existing language.

11 Section 2 deletes the old notice requirements and instead
12 references new rule 25-30.0408. This rule has already been
13 accepted by the Commission and filed with the Secretary of State.
14 The requirements were changed because they were confusing and
15 considered burdensome. The rule also contains a new requirement
16 for a filing fee. Service availability cases are generally held
17 to evaluation standards similar to that of a rate case. The
18 filings are usually complex and require substantial analysis by
19 staff. A filing fee is believed to be appropriate to reflect the
20 status of these cases.

21 Finally, a new section 4(w) is added requiring the filing of
22 tariffs. Review of the tariffs allows the staff to make sure the
23 utility request is consistent in its application. This provision
24 also makes service availability filing requirements consistent
25 with those of rate cases as referenced earlier in Rule 25-30.4385.

EXHIBIT BBM-1

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25.30-465 Private Fire Protection Rates.

The rate for private fire protection service shall be a charge based on the size of the connection rather than the number of fixtures connected. The rate shall be ~~one-twelfth~~ the current base facility charge of the utility's meter sizes, unless otherwise supported by the utility.