

DOCKET NO. 911082-WS

CERTIFICATION OF
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES
FILED WITH THE
DEPARTMENT OF STATE

I do hereby certify:

(1) The time limitations prescribed by paragraph 120.54(11)(a), F.S., have been complied with; and

(2) There is no administrative determination under section 120.54(4), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(11)(b), F.S. They are filed not less than 28 days after the notice required by subsection 120.54(1), F.S., and;

(a) And are filed not more than 90 days after the notice; or

ACK (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

CAF (c) Are filed within 21 days after the adjournment of the final public hearing on the rule; or

EAG (d) Are filed within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

LIN (e) Are filed within 21 days after the date the transcript was received by this agency.

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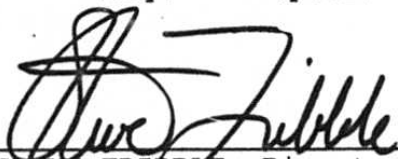
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Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

<u>Rule No.</u>	<u>Rulemaking Authority</u>	<u>Specific Law Being Implemented, Interpreted or Made Specific</u>
25-30.433(3)	367.121, F.S.	367.081, F.S.

Under the provision of paragraph 120.54(13)(a), F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)



STEVE TRIBBLE, Director
Division of Records & Reporting

Number of Pages Certified

(S E A L)

1 25-30.433 Rate Case Proceedings. In a rate case proceeding,
2 the following provisions shall apply, unless the applicant or any
3 intervenor demonstrates that these rules result in an unreasonable
4 burden. In these instances, fully supported alternatives will be
5 considered by the Commission. Any alternatives proposed by the
6 utility must be filed with the minimum filing requirements.

7 (1) The Commission in every rate case shall make a
8 determination of the quality of service provided by the utility.
9 This shall be derived from an evaluation of three separate
10 components of water and wastewater utility operations: quality of
11 utility's product (water and wastewater); operational conditions of
12 utility's plant and facilities; and the utility's attempt to
13 address customer satisfaction. Sanitary surveys, outstanding
14 citations, violations and consent orders on file with the
15 Department of Environmental Protection (DEP) and county health
16 departments (HRS) or lack thereof over the preceding 3-year period
17 shall also be considered. DEP and HRS officials' testimony
18 concerning quality of service as well as the testimony of utility's
19 customers shall be considered.

20 (2) Working capital for Class A utilities shall be calculated
21 using the balance sheet approach. Working capital for Class B and
22 C utilities shall be calculated using the formula method (one-
23 eighth of operation and maintenance expenses).

24 (3) Used and useful debit deferred taxes shall be offset
25 against used and useful credit deferred taxes in the capital

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1 structure. Any resulting net debit deferred taxes shall be
2 included as a separate line item in the rate base calculation. Any
3 resulting net credit deferred taxes shall be included in the
4 capital structure calculation. No other deferred debits shall be
5 considered in rate base when the formula method of working capital
6 is used.

7 (4) The averaging method used by the Commission to calculate
8 rate base and cost of capital shall be a 13-month average for Class
9 A utilities and the simple beginning and end-of-year average for
10 Class B and C utilities.

11 (5) Non-used and useful adjustments shall be applied to the
12 applicable depreciation expense. Property tax expense on non-used
13 and useful plant shall not be allowed.

14 (6) Charitable contributions shall not be recovered through
15 rates.

16 (7) Income tax expense shall not be allowed for Subchapter S
17 corporations, partnerships or sole proprietorships.

18 (8) Non-recurring expenses shall be amortized over a 5-year
19 period unless a shorter or longer period of time can be justified.

20 (9) The amortization period for forced abandonment or the
21 prudent retirement, in accordance with the National Association of
22 Regulatory Utility Commissioners Uniform System of Accounts, of
23 plant assets prior to the end of their depreciable life shall be
24 calculated by taking the ratio of the net loss (original cost less
25 accumulated depreciation and contributions-in-aid-of-construction

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1 (CIAC) plus accumulated amortization of CIAC plus any costs
2 incurred to remove the asset less any salvage value) to the sum of
3 the annual depreciation expense, net of amortization of CIAC, plus
4 an amount equal to the rate of return that would have been allowed
5 on the net invested plant that would have been included in rate
6 base before the abandonment or retirement. This formula shall be
7 used unless the specific circumstances surrounding the abandonment
8 or retirement demonstrate a more appropriate amortization period.

9 (10) A utility is required to own the land upon which the
10 utility treatment facilities are located, or possess the right to
11 the continued use of the land, such as a 99-year lease. The
12 Commission may consider a written easement or other cost-effective
13 alternative.

14 (11) In establishing an authorized rate of return on common
15 equity, a utility, in lieu of presenting evidence, may use the
16 current leverage formula adopted by Commission order. The equity
17 return established shall be based on the equity leverage order in
18 effect at the time the Commission decides the case.

19 (12) Nonutility investment should be removed directly from
20 equity when reconciling the capital structure to rate base unless
21 the utility can show, through competent evidence, that to do
22 otherwise would result in a more equitable determination of the
23 cost of capital for regulatory purposes.

24 (13) Interest expense to be included in the calculation of
25 income tax expense shall be the amount derived by multiplying the

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1 amount of the debt components of the reconciled capital structure
2 times the average weighted cost of the respective debt components.
3 Interest expense shall include an amount for the parent debt
4 adjustment in those cases covered by Rule 25-14.004. Interest
5 shall also be imputed on deferred investment tax credits in those
6 cases covered by 26 CFR Part 1, s. 1.46-6(b)(2)(i), (3) and (4)(ii)
7 issued May 22, 1986 and effective for property constructed or
8 acquired on or after August 15, 1971.

9 Specific Authority: 367.121, F.S.

10 Law Implemented: 367.081, F.S.

11 History: New 11/30/93, Amended

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SUMMARY OF RULE

Rule 25-30.433(3) codifies how the Commission will address the issue of debit deferred taxes in rate case proceedings.

SUMMARY OF HEARINGS ON THE RULE

Hearings were held on May 24, 25, and 26, August 12, and October 7, 1993 at Commission headquarters in Tallahassee, Florida. The hearings were conducted by Commission members. Participants were Commission staff, the Office of Public Counsel (OPC), Florida Waterworks Association (FWWA), and several utilities including Florida Cities Water Company (FCWC), and Southern States Utilities, Inc., (SSU). Staff presentations were given by Charles Hill, Bill Lowe, Marshall Willis, and Patricia Merchant.

Regarding Rule 25-30.433(3), Debit Deferred Taxes, staff proposed a correction to the first sentence to clarify the Commission practice of netting used and useful debit and credit deferred taxes instead of gross amounts, and explained that this coincides with the used and useful adjustments made to plant in determining rate base. No parties disagreed with this change. Staff recommended further clarification by adding a third sentence.

Witness Swain commented for FWWA that the last sentence of this section is confiscatory because it won't acknowledge investment in many items. They did not suggest that deferred debits in their entirety be included as a separate item of rate base but the unamortized balance should earn a return. As to the first sentence, Ms. Swain thought it would be more accurate and simpler to offset CIAC by the taxes paid on it.

SSU Witness Cresse commented that the Commission should remove the sentence stating "[n]o other deferred debit shall be considered in rate base when the formula method of working capital is used," agreeing with Ms. Swain. Mr. Cresse also commented that non-recurring expenses should be amortized over four years like rate case expense.

Staff recommended that the Commission adopt the proposed rule as changed because it codifies longstanding Commission policy and the Commission voted to adopt it as changed.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Debit deferred taxes are an issue in rate cases, along with quality of service, working capital, averaging, and used and useful applications. Each party that has an interest in the proceeding files prefiled testimony and does extensive discovery resulting in increased rate case expense. By codifying how the Commission will treat these issues, the rule should simplify rate cases and lower rate case expense.

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