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Public Service Commission

June 1, 2007

Mr. Scott Boyd, Executive Director
Joint Administrative Procedures
Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

RE: Docket No. 070183-WS – Proposed adoption of Rule 25-30.4325, F.A.C., Water Treatment Plant Used and Useful Calculations

Dear Mr. Boyd:

Enclosed are 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 me.

Sincerely,

Manual Arisso
Associate General Counsel

070183 JAPC.ma.doc
Enclosures
cc: Office of Commission Clerk

25-30.4325 Water Treatment and Storage Used and Useful Calculations

(1) Definitions.

(a) A water treatment system includes all facilities, such as wells and treatment facilities, excluding storage, necessary to produce, treat, and deliver potable water to a transmission and distribution system.

(b) Storage facilities include ground or elevated storage tanks and high service pumps.

(c) Peak demand for a water treatment system includes the utility's maximum hour or day demand, excluding excessive unaccounted for water, plus a growth allowance based on the requirements of Rule 25-30.431, Florida Administrative Code, and, where fire flow is provided, a minimum of either the fire flow required by the local governmental authority or 2 hours at 500 gallons per minute.

(d) Peak demand for storage includes the utility's maximum day demand, excluding excessive unaccounted for water, plus a growth allowance based on the requirements of Rule 25-30.431, Florida Administrative Code, and, where provided, a minimum of either the fire flow required by the local governmental authority or 2 hours at 500 gallons per minute.

(e) Excessive unaccounted for water (EUW) is finished potable water produced in excess of 110 percent of the accounted for usage, including water sold; other water used, such as for flushing or fire fighting; and water lost through line breaks.

(2) The Commission's used and useful evaluation of water treatment system and storage facilities shall include a determination as to the prudence of the investment and consideration of economies of scale.

(3) Separate used and useful calculations shall be made for the water treatment system and storage facilities. However, if the utility believes an alternative calculation is appropriate, such calculation may also be provided, along with supporting documentation.

(4) A water treatment system is considered 100 percent used and useful if:

(a) The system is the minimum size necessary to adequately serve existing customers plus an allowance for growth and fire flow; or

(b) The service territory the system is designed to serve is mature or built out and there is no potential for expansion of the service territory; or

(c) The system is served by a single well.

(5) The used and useful calculation of a water treatment system is made by dividing the peak demand by the firm reliable capacity of the water treatment system.

(6) The firm reliable capacity of a water treatment system is equivalent to the pumping capacity of the wells, excluding the largest well for those systems with more than one well. However, if the pumping capacity is restricted by a limiting factor such as the treatment capacity or draw down limitations, then the firm reliable capacity is the capacity of the limiting component or restriction of the water treatment system. In a system with multiple wells, if a utility believes there is justification to consider more than one well out of service in determining firm reliable capacity, such circumstance will be considered. The utility must provide support for its position, in addition to the analysis excluding only the largest well.

(a) Firm reliable capacity is expressed in gallons per minute for systems with no storage capacity.

(b) Firm reliable capacity is expressed in gallons per day, based on 12 hours of pumping, for systems with storage capacity.

(7) Peak demand is based on a peak hour for a water treatment system with no storage capacity and a peak day for a water treatment system with storage capacity.

(a) Peak hour demand, expressed in gallons per minute, shall be calculated as follows:

1. The single maximum day (SMD) in the test year unless there is an unusual occurrence on that day, such as a fire or line break, less excessive unaccounted for water, divided by 1440 minutes in a day, times 2 [((SMD-EUW)/1,440) x 2], or

2. The average of the 5 highest days (AFD) within a 30-day period in the test year, excluding any day with an unusual occurrence, less excessive unaccounted for water, divided by 1440 minutes in a day, times 2 [((AFD-EUW)/1,440) x 2], or

3. If the actual maximum day flow data is not available, 1.1 gallons per minute per equivalent residential connection (1.1 x ERC).

(b) Peak day demand, expressed in gallons per day, shall be calculated as follows:

1. The single maximum day in the test year, if there is no unusual occurrence on that day, such as a fire or line break, less excessive unaccounted for water (SMD-EUW), or

2. The average of the 5 highest days within a 30-day period in the test year, excluding any day with an unusual occurrence, less excessive unaccounted for water (AFD-EUW), or

3. If the actual maximum day flow data is not available, 787.5 gallons per day per equivalent residential connection (787.5 x ERC).

(8) The used and useful calculation of storage is made by dividing the peak demand by the usable storage of the storage tank. Usable storage capacity less than or equal to the peak day demand shall be considered 100 percent used and useful. A hydropneumatic tank is not considered usable storage.

(9) Usable storage determination shall be as follows:

(a) An elevated storage tank shall be considered 100 percent usable.

(b) A ground storage tank shall be considered 90 percent usable if the bottom of the tank is below the centerline of the pumping unit.

(c) A ground storage tank constructed with a bottom drain shall be considered 100 percent usable, unless there is a limiting factor, in which case the limiting factor will be taken into consideration.

(10) To determine whether an adjustment to plant and operating expenses for excessive unaccounted for water will be included in the used and useful calculation, the

Commission will consider all relevant factors, including whether the reason for excessive unaccounted for water during the test period has been identified, whether a solution to correct the problem has been implemented, or whether a proposed solution is economically feasible.

(11) In its used and useful evaluation, the Commission will consider other relevant factors, such as whether flows have decreased due to conservation or a reduction in the number of customers.

Specific Authority: 350.127(2), 367.121(1)(f) FS.

Law Implemented: 367.081(2), (3) FS.

History: New _____.

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

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE

25-30.4325: Water Treatment Plant Used and Useful Calculation

PURPOSE AND EFFECT: Docket No. 070183-WS - The purpose of this rule is to provide uniform standards for the calculation of the used and useful calculation for water treatment systems and storage facilities.

SUMMARY: The rule will formalize the Commission's practice in calculating used and useful percentages for water treatment plants and storage facilities in rate proceedings.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The SERC concluded that there should be no negative impact on other state and local government entities and no impact on small businesses. It also found that the rule will benefit water utilities and customers.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or 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(1)(f), FS

LAW IMPLEMENTED: 367.081(2), (3), FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Manuel Arisso, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850 (850) 413-6028.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-30.4325 Water Treatment and Storage Used and Useful Calculations

(1) Definitions.

(a) A water treatment system includes all facilities, such as wells and treatment facilities, excluding storage, necessary to produce, treat, and deliver potable water to a transmission and distribution system.

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2. The average of the 5 highest days within a 30-day period in the test year, excluding any day with an unusual occurrence, less excessive unaccounted for water (AFD-EUW), or

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(11) In its used and useful evaluation, the Commission will consider other relevant factors, such as whether flows have decreased due to conservation or a reduction in the number of customers.

Specific Authority: 350.127(2), 367.121(1)(f) FS.

Law Implemented: 367.081(2), (3) FS.

History: New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Troy Rendell

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 22, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume 32, Number 25, June 23, 2006

Rule 25-30.4325
Docket No. 070183-WS

STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING RULE

Used and useful calculations for water treatment systems have been addressed differently in past rate cases before the Commission. There has been a substantial amount of staff time, as well as utility and consultant time, spent on this used and useful calculations in past rate proceedings. This also involves a substantial amount of rate case expense, which ultimately is passed onto the utility's ratepayers. At a recent rate proceeding where testimony from various parties and PSC staff along with evidence was presented forms the basis of the proposed rule. This proposed rule would standardize the water treatment plant and storage facilities used and useful calculations, thus simplifying the process. Ultimately, the amount of time spent by staff, utility personnel, and consultants will be drastically reduced eliminating a portion of rate case expense and regulatory costs.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.

State of Florida

Public Service Commission

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

-M-E-M-O-R-A-N-D-U-M-

DATE: April 26, 2007

TO: Office of General Counsel (Harris)

FROM: Division of Economic Regulation (Hewitt)

RE: Statement of Estimated Regulatory Costs for Proposed Rule 25-30.4325, F.A.C., Water Treatment and Storage Used and Useful Calculations

DETAILED DESCRIPTION OF THE PROPOSED RULE

1. Why it is being proposed?

New policy not mandated by statute

In the past, the water plant assets in service that were considered necessary and prudent in water utility rate cases have been calculated on a case-by-case basis. Since 2003, Commission decisions have coalesced to the point that its policy concerning used and useful plants is ready for rule making.

2. What does the rule do and how does it accomplish its goal?

Proposed Rule 25-30.4325, F.A.C., would codify, streamline, and standardize the Commission's practice in calculating used and useful percentages for water treatment plants and storage facilities. The determination of when a water treatment plant is considered 100 percent used and useful would be defined. Also defined are the firm reliable capacity of a water treatment system and the usable storage determination. A determination as to the prudence of investment and a consideration of economies of scale are included.

IMPACT ON THE PSC

Rule implementation and enforcement costs and impact on revenues for the agency and other state and local government entities

Incremental costs

The only incremental cost to the Commission would be the usual costs of promulgating a rule.

Incremental benefits

The Commission would benefit by having its policy on used and useful water treatment plants codified, resulting in less time spent on proceedings to determine used and useful issues. There should be no significant impact on FPSC revenues. However, if rates are reduced because less is spent on rate case expense, there could be a slight reduction in regulatory assessment fees. Other state and local government entities should not be negatively impacted.

WHO BESIDES THE PSC WILL BE AFFECTED BY ADOPTION OF THE PROPOSAL

Estimated number of entities required to comply and general description of individuals affected

Utilities

There are 203 water and wastewater companies certified by the Commission. The water treatment utilities are required to treat and deliver potable water to customers in their service territory. Only those companies providing water treatment and subject to a rate proceeding would be affected.

Customers

Customers would be indirectly affected if their utility has a rate case and rates are not increased as much as they would be because of lower rate case expenses.

Impact on small businesses, small cities, or small counties

Outside business and local governments

There should be no negative impacts on small businesses, small cities, or small counties. They may eventually benefit from lower rates because of less rate case expense. Small water companies should benefit from a rule that makes explicit how and what assets are considered used and useful in their operations.

HOW ARE THE PARTIES ABOVE AFFECTED BY THE ADOPTION OF THE PROPOSAL

Estimated transactional costs to individuals and entities

Utilities

There should not be any significant transactional costs because the policy being codified is currently followed in determining used and useful water treatment plants in Commission proceedings. Water treatment utilities should benefit significantly from a rule that makes explicit how and what assets are considered used and useful in their operations. Much of the time and expense of litigation of used and useful issues in rate cases would be avoided. The total savings per utility are unknown but would depend on the complexity of the water treatment system involved and if the utility used in-house or outside consultants to process its rate case.

Customers

Customers should have no transactional costs. They could benefit indirectly if there is less rate case expense when their utility has a rate case.

Outside business including specifically small businesses

There should be no negative impacts on small businesses. They may eventually benefit from lower rates because of less rate case expense. Small water companies should benefit from a rule that makes explicit how and what assets are considered used and useful in their operations.

Local governments

There should be no negative impacts on small cities or small counties. They may eventually benefit if there is less rate case expense when their utility has a rate case.

ANY OTHER PERTINENT COMMENTS REGARDING THE APPLICATION OF THE PROPOSED RULE

Although Office of Public Counsel and some utility parties disagree on some sections of the proposed rule, staff believes that the proposed rule is the best one after considering all the comments and suggestions from all the parties.

CH:kb
cc: Mary Andrews Bane
Chuck Hill
Troy Rendell
Hurd Reeves