

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed adoption of Rule 25-30.4325, F.A.C., Water Treatment Plant Used and Useful Calculations. | DOCKET NO. 070183-WS  
| ORDER NO. PSC-07-0741-PCO-WS  
| ISSUED: September 17, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
MATTHEW M. CARTER II  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

ORDER GRANTING PETITION FOR HEARING AND SUSPENDING RULEMAKING

BY THE COMMISSION:

By Order No. PSC-07-0469-NOR-WS, issued May 31, 2007, in this docket, we issued notice of our intent to adopt new Rule 25-30.4325, Florida Administrative Code (F.A.C.), relating to water treatment plant used-and-useful calculations. The Notice of Rulemaking appeared in the June 8, 2007 edition of the Florida Administrative Weekly, and advised that if timely requested, a hearing would be held at a time and place to be announced in a future notice.

On June 29, 2007, the Office of Public Counsel (OPC) timely filed a Petition for Hearing on the proposed adoption of the rule on behalf of the Citizens of the State of Florida (Citizens), pursuant to subsection 120.54(3)(c)2., Florida Statutes (F.S.). Because proposed Rule 25-30.4325, F.A.C., will establish uniform standards for the calculation of the used-and-useful percentages for water treatment and storage facilities for all Commission-regulated water companies, OPC asserts that the substantial interests of all customers of privately owned water companies regulated by this Commission will be affected by it. These standards will determine what portions of the companies' water treatment and storage plant-in-service will be included in rate base. Setting these standards will have a material effect on determining the revenue requirements and resulting rates and charges to be imposed upon ratepayers in future water rate case proceedings.

OPC contends that many of the provisions of proposed Rule 25-30.4325, F.A.C., do not properly establish or properly apportion the costs of providing water service between current and future customers. OPC asserts that conducting a public hearing on the proposed rule under the provisions of section 120.54(3), F.S., will not adequately protect the Citizens' substantial interests because establishing proper standards for the calculation of the used-and-useful percentages of water treatment, storage and high service pumping plant-in-service involves complex engineering issues. The substantial interests of the Citizens require that these complex issues be presented and resolved in a formal evidentiary hearing under sections 120.569 and

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120.57(1), F.S., where the experts for the utilities and the customers can present their sworn testimony subject to cross-examination and file post-hearing briefs.

We agree that the Citizens' substantial interests will be affected by the proposed rule and we find that OPC's request for a formal evidentiary hearing has merit. Therefore, OPC's Petition for Hearing is hereby granted. Accordingly, the rulemaking proceeding shall be suspended pending the completion of a formal evidentiary hearing on the matter and resumed upon the conclusion of the formal evidentiary proceeding, pursuant to subsection 120.54(3)(c)2., F.S.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Office of Public Counsel's Petition for Hearing is hereby granted. Accordingly, the rulemaking proceeding shall be suspended pending the completion of a formal evidentiary hearing on the matter and resumed upon the conclusion of the formal evidentiary proceeding. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 17th day of September, 2007.



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ANN COLE  
Commission Clerk

( S E A L )

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.