

DOCKET NO. 960933-WS

CERTIFICATION OF PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES

FILED WITH THE DEPARTMENT OF STATE

RECEIVED DEC 31 1996 CONSUMER AFFAIRS

I do hereby certify:

[X/ (1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and

[X/ (2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and

[X/ (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and;

[/ (a) Are filed not more than 90 days after the notice; or

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

ACK [/ (c) Are filed more than 90 days after the notice, but not less than 21 days from the date of publication of the notice of change; or

CMU [X/ (d) Are filed more than 90 days after the notice, but within 21 days after the adjournment of the final public hearing on the rule; or

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✓/ (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

✓/ (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

✓/ (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered.

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.

Rule No. 25-30.060

Under the provision of subparagraph 120.54(3)(e)6., 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)

Blanca S. Bayó
BLANCA S. BAYÓ, Director
Division of Records & Reporting

Number of Pages Certified

(S E A L)

DWC

1 25-30.060 Application for Exemption from Regulation or
2 Nonjurisdictional Finding.

3 ~~(1) Each application for an exemption shall be filed in~~
4 ~~original and four copies, with the Director, Division of Records~~
5 ~~and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida~~
6 ~~32399-0870. Sample application forms may be obtained from the~~
7 ~~Division of Water and Wastewater, 2540 Shumard Oak Boulevard,~~
8 ~~Tallahassee, Florida 32399-0850.~~

9 ~~(2) Each application for an exemption from regulation shall~~
10 ~~contain the following information:~~

11 ~~(a) The name of the system owner,~~

12 ~~(b) The physical address of the system,~~

13 ~~(c) The mailing address of the applicant, if different from~~
14 ~~the system address,~~

15 ~~(d) The name, address, and phone number of the primary~~
16 ~~contact person for the exemption request,~~

17 ~~(e) The nature of the applicant's business organization,~~
18 ~~e.g., corporation, partnership, limited partnership, sole~~
19 ~~proprietorship, association, and~~

20 ~~(f) A statement that the applicant is aware that pursuant to~~
21 ~~Section 837.06, Florida Statutes, whoever knowingly makes a false~~
22 ~~statement in writing with the intent to mislead a public servant in~~
23 ~~the performance of his official duty shall be guilty of a~~
24 ~~misdemeanor of the second degree, punishable as provided in s.~~
25 ~~775.082 or s. 775.083.~~

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~~struck-through~~ type are deletions from existing law.

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1 ~~(3) Each application must specifically state which type of~~
2 ~~exemption is being applied for and contain one of the following:~~

3 ~~(a) For an exemption pursuant to Section 367.022(1), Florida~~
4 ~~Statutes, a statement from the owner of the system that the system~~
5 ~~is used solely to provide bottled water and that water is not~~
6 ~~provided to customers through a water main or service pipe;~~

7 ~~(b) For an exemption pursuant to Section 367.022(2), Florida~~
8 ~~Statutes, a statement from the governmental authority specifying~~
9 ~~the statutory authority for the governmental authority; that the~~
10 ~~system is owned, operated, managed, or controlled by the~~
11 ~~governmental authority; and stating whether it provides water~~
12 ~~service, wastewater service or both. The applicant shall describe~~
13 ~~with particularity the nature of the ownership, operation,~~
14 ~~management, and control of the system;~~

15 ~~(c) For an exemption pursuant to Section 367.022(3), Florida~~
16 ~~Statutes, a statement from the manufacturer that service is~~
17 ~~provided solely in connection with its operations; and stating~~
18 ~~whether it provides water service, wastewater service or both;~~

19 ~~(d) For an exemption pursuant to Section 367.022(4), Florida~~
20 ~~Statutes, a statement from the public lodging establishment that~~
21 ~~service is provided solely in connection with service to its~~
22 ~~guests; and stating whether it provides water service, wastewater~~
23 ~~service or both;~~

24 ~~(e) For an exemption pursuant to Section 367.022(5), Florida~~
25 ~~Statutes, a statement from the landlord that it provides service~~

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1 ~~solely to tenants; that charges for service are non specifically~~
2 ~~contained in rental charges; and stating whether it provides water~~
3 ~~service, wastewater service or both. A copy of the landlord's most~~
4 ~~recent version of a standard lease or rental agreement shall be~~
5 ~~submitted with the application;~~

6 ~~(f) For an exemption pursuant to Section 367.022(6), Florida~~
7 ~~Statutes, a statement from the owner of the system that the system~~
8 ~~has or will have the capacity to serve 100 or fewer persons; and~~
9 ~~stating whether it provides water service, wastewater service or~~
10 ~~both. The applicant shall submit documentation verifying the~~
11 ~~capacity of the system(s). For a wastewater system, the capacity~~
12 ~~of both the treatment and disposal facilities shall be documented;~~

13 ~~(g) For an exemption pursuant to section 367.022(7), Florida~~
14 ~~Statutes, a statement that it provides service solely to members~~
15 ~~who own and control it; and stating that it provides water service,~~
16 ~~wastewater service or both.~~

17 ~~1. When the applicant is a condominium formed pursuant to~~
18 ~~the Condominium Act, Chapter 718, Florida Statutes, it must~~
19 ~~provide:~~

20 ~~a. A copy of the certificate obtained from the Secretary of~~
21 ~~State showing that it is formed under Chapter 718, Florida~~
22 ~~Statutes;~~

23 ~~b. A statement as to whether the applicant's articles of~~
24 ~~incorporation and bylaws contain the requirements for turnover of~~
25 ~~control of the condominium to the nondeveloper members as set out~~

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1 ~~in Chapter 718, Florida Statutes. If turnover of control has not~~
2 ~~occurred, a statement as to the date turnover of control to the~~
3 ~~nondeveloper members is expected to occur.~~

4 ~~2. When the applicant is a cooperative formed pursuant to~~
5 ~~the Cooperative Act, Chapter 719, Florida Statutes, it must~~
6 ~~provide:~~

7 ~~a. A copy of the certificate obtained from the Secretary of~~
8 ~~State showing that it is formed under Chapter 719, Florida~~
9 ~~Statutes;~~

10 ~~b. A statement as to whether the applicant's articles of~~
11 ~~incorporation and bylaws contain the requirements for turnover of~~
12 ~~control of the cooperative to the nondeveloper members as set out~~
13 ~~in Chapter 719, Florida Statutes. If turnover of control has not~~
14 ~~occurred, a statement as to the date turnover of control to the~~
15 ~~nondeveloper members is expected to occur.~~

16 ~~3. When the applicant is a nonprofit corporation formed~~
17 ~~pursuant to Chapter 617, Florida Statutes, it must provide:~~

18 ~~a. The articles of incorporation as filed with the Secretary~~
19 ~~of State and the bylaws which documents must demonstrate that it~~
20 ~~provides service solely to members who own the corporation;~~

21 ~~b. A description of the voting rights and their location in~~
22 ~~the articles of incorporation and the bylaws. The voting rights~~
23 ~~shall be one vote per unit of ownership or other voting rights if~~
24 ~~the Commission finds they are fair and nondiscriminatory so that~~
25 ~~members have equitable control of the corporation.~~

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1 ~~e. In circumstances where the applicant is a nonprofit~~
2 ~~corporation formed by a developer pursuant to Chapter 617, Florida~~
3 ~~Statutes, it must provide documentation showing that control has~~
4 ~~passed or, if not, the circumstances under which control of the~~
5 ~~corporation will pass to the nondeveloper members. The time must~~
6 ~~not exceed seven years from the date of incorporation unless the~~
7 ~~Commission finds that special circumstances justify a longer time.~~

8 ~~(h) For an exemption pursuant to Section 367.022(8), Florida~~
9 ~~Statutes, a statement from the reseller that service is provided at~~
10 ~~a rate or charge that does not exceed the actual purchase price,~~
11 ~~stating that the reseller is aware of the requirements of Rule~~
12 ~~25 30.111, Florida Administrative Code, stating that the reseller~~
13 ~~is aware of the requirements of Section 367.122, Florida Statutes,~~
14 ~~and Rules 25 30.262, .263, .264, .265, .266 and .267, Florida~~
15 ~~Administrative Code, relating to examination and testing of meters,~~
16 ~~and stating whether it provides water service, wastewater service~~
17 ~~or both. The reseller must also provide the name of the utility~~
18 ~~providing service to it and that utility's current rates and~~
19 ~~charges. The reseller must submit a schedule of all of its~~
20 ~~proposed rates and charges, an explanation of the proposed method~~
21 ~~of billing customers, separately, for both water and wastewater,~~
22 ~~and a schedule showing that the amount billed will not exceed the~~
23 ~~amount paid for water, wastewater, or both.~~

24 ~~(i) For an exemption pursuant to Section 367.022(9), Florida~~
25 ~~Statutes, a statement from the owner of the wastewater system that~~

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1 ~~the system is primarily for the treatment of wastewater other than~~
2 ~~domestic wastewater, such as runoff and leachate from areas that~~
3 ~~receive pollutants associated with industrial or commercial~~
4 ~~storage, handling or processing, and identifying the principal~~
5 ~~source or nature of such wastewater;~~

6 ~~(j) For a nonjurisdictional finding pursuant to Section~~
7 ~~367.021(12), Florida Statutes, a statement from the system owner~~
8 ~~stating that it does not charge for providing utility service,~~
9 ~~specifying how operational costs of providing service are treated~~
10 ~~or recovered, and stating whether it provides water service,~~
11 ~~wastewater service, or both.~~

12 Specific Authority 350.127(2), 367.121(1) FS.

13 Law Implemented 367.021(12), 367.022, 367.031 FS.

14 History--New 1-5-92, Amended 11-30-93, 2-15-96, Repealed .

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SUMMARY OF RULE

The repeal of this rule would effect the change to Section 367.022, F.S., by eliminating the need for applications and a subsequent Commission order authorizing exemptions for companies or entities such as providers of bottled water, governmental entities, public lodging and landlords providing service to guests and tenants, small systems, and non-profit corporations, to name a few.

SUMMARY OF HEARINGS ON THE RULE

A hearing was not requested, therefore none was held.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Section 367.031, F.S., was amended to eliminate the requirement that an order recognizing a system is exempt from regulation as provided by Section 367.022, F.S., be issued by the Commission. The rule repeal will effect the statutory change.

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3"	Turbine	17.5
4"	Displacement or Compound	25.0
4"	Turbine	30.0
6"	Displacement or Compound	50.0
6"	Turbine	62.5
8"	Compound	80.0
8"	Turbine	90.0
10"	Compound	115.0
10"	Turbine	145.0
12"	Turbine	215.0

(c) Where undeveloped land is adjacent to a system or proposed system the Commission may, where appropriate, estimate ERCs for service to future development on the adjacent undeveloped land. Unless the Commission determines that valid local statistical data should be used, ERCs for residential acreage should be estimated as follows:

Residential Use	ERCs/Acre
Mobile home	4.8
Detached single family	4.0

Estimates for other types of residential acreage and for commercial and industrial uses shall be made on a case by case basis.

Specific Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 367.022(6) FS. History—New 1-5-84. Formerly 25-10.10, 25-10.010, Amended 11-10-86.

25-30.060 Application for Exemption from Regulation or Nonjurisdictional Finding.

(1) Each application for an exemption shall be filed in original and two copies, with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870. Sample application forms may be obtained from the Division of Water and Wastewater, Bureau of Certification, 101 East Gaines Street, Tallahassee, Florida 32399-0850.

(2) Each application for an exemption from regulation shall contain the following information:

- The name of the system owner;
- The physical address of the system;
- The mailing address of the applicant, if different from the system address;

(d) The name, address, and phone number of the primary contact person for the exemption request;

(e) The nature of the applicant's business organization, e.g., corporation, partnership, limited partnership, sole proprietorship, association; and

(f) A statement that the applicant is aware that pursuant to Section 837.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Each application must specifically state which type of exemption is being applied for and contain one of the following:

(a) For an exemption pursuant to Section 367.022(1), Florida Statutes, a statement from the owner of the system that the system is used solely to provide bottled water and that water is not provided to customers through a water main or service pipe;

(b) For an exemption pursuant to Section 367.022(2), Florida Statutes, a statement from the governmental authority specifying the statutory authority for the governmental authority; that the system is owned, operated, managed, or controlled by the governmental authority; stating whether it provides water service, wastewater service or both; and specifying the service area. The applicant shall describe with particularity the nature of the ownership, operation, management, and control of the system;

(c) For an exemption pursuant to Section 367.022(3), Florida Statutes, a statement from the manufacturer that service is provided solely in connection with its operations; stating whether it provides water service, wastewater service or both; and specifying the service area;

(d) For an exemption pursuant to Section 367.022(4), Florida Statutes, a statement from the public lodging establishment that service is provided solely in connection with service to its guests; stating whether it provides water service, wastewater service or both; and specifying the service area;

(e) For an exemption pursuant to Section 367.022(5), Florida Statutes, a statement from the landlord that it provides service solely to tenants; that charges for service are non-specifically contained in rental charges; stating whether it provides water service, wastewater service or both; and specifying the service area. A copy of the landlord's most recent version of a standard lease or rental agreement, shall be submitted with the application;

(f) For an exemption pursuant to Section 367.022(6), Florida Statutes, a statement from the owner of the system that the system has or will have the capacity to serve 100 or fewer persons; stating whether it provides water service, wastewater service or both; and specifying the service area. The applicant shall submit documentation verifying the capacity of the system(s). For a wastewater system, the capacity of both the treatment and disposal facilities shall be documented;

(g) For an exemption pursuant to Section 367.022(7), Florida Statutes, a statement from the corporation, association, or cooperative that it is nonprofit; that it provides service solely to members who own and control it; stating whether it provides water service, wastewater service or both; specifying who will do the billing for such service; and specifying the service area. The applicant must submit its articles of incorporation as filed with the Secretary of State and its bylaws, which documents

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must clearly show the requirements for membership, that the members' voting rights are one vote per unit of ownership, and the circumstances under which control of the corporation passes to the non-developer members. Control of the corporation must pass: 1) at 51 percent ownership by the non-developer members or, 2) at some greater percentage delimited by a time period not to exceed 5 years from the date of incorporation. The applicant must provide proof of its ownership of the utility facilities and the land upon which the facilities will be located or other proof of its right to continued use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost-effective alternative;

(h) For an exemption pursuant to Section 367.022(8), Florida Statutes, a statement from the reseller that service is provided at a rate or charge that does not exceed the actual purchase price; stating that the reseller is aware of the requirements of Rule 25-30.111, Florida Administrative Code; stating that the reseller is aware of the requirements of Section 367.122, Florida Statutes, and Rules 25-30.262, 263, 264, 265, 266 and 267, Florida Administrative Code, relating to examination and testing of meters; stating whether it provides water service, wastewater service or both; and specifying the service area. The reseller must also provide the name of the utility providing service to it and that utility's current rates and charges. The reseller must submit a schedule of all of its proposed rates and charges, an explanation of the proposed method of billing customers, separately, for both water and wastewater, and a schedule showing that the amount billed will not exceed the amount paid for water, wastewater, or both;

(i) For an exemption pursuant to Section 367.022(9), Florida Statutes, a statement from the owner of the wastewater system that the system is primarily for the treatment of wastewater other than domestic wastewater, such as runoff and leachate from areas that receive pollutants associated with industrial or commercial storage, handling or processing; identifying the principal source or nature of such wastewater; and specifying the service area;

(j) For a nonjurisdictional finding pursuant to Section 367.021(12), Florida Statutes, a statement from the system owner stating that it does not charge for providing utility service; specifying how operational costs of providing service are treated or recovered; stating whether it provides water service, wastewater service, or both; and specifying the service area.

Specific Authority 367.121(1) FS. Law Implemented 367.021(12), 367.022, 367.031 FS. History—New 1-5-92, Amended 11-30-93.

25-30.090 Abandonments.

(1) This rule applies to any person, lessee, trustee, or receiver owning, operating, managing, or controlling a utility which intends to abandon the utility. The provisions of this rule are intended to prevent service interruptions to the utility customers.

(2) The notice required by section 367.165, F.S., shall include the following:

- (a) The utility's name and address;
- (b) The person to contact regarding this notice, their address and telephone number;
- (c) The location of the utility's books and records;
- (d) The date of the notice;
- (e) The date the utility will be abandoned;
- (f) Whether the water system, wastewater system, or both are to be abandoned;
- (g) A statement of the reason the utility is to be abandoned;

(h) A statement of the status of the utility with the Department of Environmental Protection regarding outstanding citations or violations.

(3) Within 10 days of the appointment of a receiver by the circuit court, the receiver shall request from the Commission a copy of the utility's tariff and most recent annual report.

(4) Within 90 days of the appointment of the receiver, the receiver shall file a proposed tariff revision amending the title page to reflect the name, address and telephone number of the receiver. This shall not affect the certificated name of the utility.

(5) During the pendency of the receivership, the receiver shall be responsible for fulfilling the utility's obligations pursuant to Chapter 367, F.S., and Chapter 25-30, F.A.C. In no event shall a receiver be held responsible for failure to provide safe, efficient and sufficient service where such failure is substantially caused by actions or omissions pre-dating appointment of the receiver, unless the receiver is given reasonable opportunity to rectify such failure.

(6) If the receiver appointed by the circuit court is a governmental authority as defined by section 367.021(7), F.S., the governmental authority, upon request, shall be found exempt pursuant to section 367.022(2), F.S.

Specific Authority 367.121 FS. Law Implemented 367.165 FS. History—New 11-30-93.

PART II RECORDS AND REPORTS

25-30.110 Records and Reports; Annual Reports.

(1) RECORDS.

(a) Each utility shall preserve its records in accordance with the "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities" as issued by the National Association of Regulatory Utility Commissions.

(b) Unless otherwise authorized by the Commission, each utility shall maintain its records at the office or offices of the utility within this state and shall keep those records open for inspection during business hours by Commission staff.

(2) IN GENERAL. Each utility shall furnish to the Commission at such time and in such forms as the Commission may require, the results of any required tests and summaries of any required records. The utility shall also furnish the Commission with any information concerning the utility's facilities or operation that the Commission