

FLORIDA PUBLIC SERVICE COMMISSION
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Tallahassee, Florida 32399-0850

MEMORANDUM

May 7, 1998

RECEIVED

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10:45
FPSC - Records/Reporting

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF APPEALS (MOORE) *CTM*
DIVISION OF WATER & WASTEWATER (CASEY, IWENJORA) *Casey*
DIVISION OF RESEARCH & REGULATORY REVIEW (HEWITT) *Hewitt*

RE: DOCKET NO. 980561-WS - PROPOSED AMENDMENT OF RULES 25-30.420, ESTABLISHMENT OF PRICE INDEX, ADJUSTMENT OF RATES; REQUIREMENT OF BOND; FILINGS AFTER ADJUSTMENT; NOTICE TO CUSTOMERS; AND 25-30.425, PASS THROUGH RATE ADJUSTMENT.

AGENDA: 5/19/98 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY BE DEFERRED

SPECIAL INSTRUCTIONS: S:\PSC\APP\WP\980561WS.RCM

CASE BACKGROUND

Pursuant to section 120.54(2), Florida Statutes, a Notice of Rule Development containing the text of the recommended changes to the rules was issued and published in the Florida Administrative Weekly on January 23, 1998. No requests for a workshop and no comments on the rule changes were received.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission amend Rule 25-30.420, F.A.C., governing the establishment of a price index and rate changes pursuant to the index?

RECOMMENDATION: Yes. The Commission should amend Rule 25-30.420, F.A.C., to clarify certain provisions and to codify provisions of recent price index orders.

STAFF ANALYSIS: Rule 25-30.420, F.A.C., implements section 367.081(4)(a), Florida Statutes, requiring the Commission to establish a price increase or decrease index for major categories of operating costs for utilities under its jurisdiction. The statute further requires the Commission to adopt a rule providing

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the procedure to be used in determining the index and a procedure for utilities to adjust rates based on the index without further action of the Commission.

The recommended amendments to Rule 25-30.420 update it to reflect the additional information that has been required by the Commission's yearly price index order. The Division of Records and Reporting is required to mail each regulated water and wastewater utility a copy of the Commission's proposed agency action order establishing each year's index and an application form. A utility filing for a price index increase or decrease is required to file an original and five copies of the application with the Division of Water and Wastewater.

New language clarifies that applications for a newly established index will be accepted from April 1 of the year established through March 31 of the following year; that only one index is established per year; and that the index will be applied to all operating and maintenance expenses except those excluded by statute and amortization of rate case expense. The rule is amended to require the Commission to consider government compiled cost statistics in establishing the index. This codifies the Commission's decision in each of the past six years.

New language adds the requirement for a utility to provide the Commission with its Department of Environmental Protection (DEP) Public Water System identification number and Wastewater Treatment Plant Operating Permit number. Staff engineers check on a utility's quality of service whenever an index or pass-through application is being processed. DEP keeps their utility files by DEP identification number. Having the DEP identification numbers should speed up the process of obtaining this information.

Finally, subsection (7) is amended to provide that a utility must have on file its annual report for the test year specified in the order establishing the index at the time it files a notice of intention to implement a price index rate change. This requirement is necessary for staff to verify operation and maintenance expenses incurred by the utility in the preceding year. Rule 25-30.110(3) requires annual reports to be filed on or before March 31 for the preceding calendar year.

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ISSUE 2: Should the Commission amend Rule 25-30.425, F.A.C., governing pass through adjustments to rates?

RECOMMENDATION: Yes. The Commission should amend Rule 25-30.425, F.A.C., to clarify certain provisions, to reflect a statutory change, and to require evidence of supplier utility's past rates in certain cases.

STAFF ANALYSIS: Rule 25-30.425, F.A.C., implements section 367.081(4)(b), Florida Statutes, authorizing water and wastewater utilities to pass through increases and decreases in certain rates, taxes, and other charges to its customers, without hearing upon providing prior notice to the Commission.

Rule 25-30.425(1)(a) and (2)(a) are amended to require the utility that is passing through another utility's rate changes to furnish evidence of the supplier's rates in effect on January 1 of each of the three preceding years. This information will enable staff to determine if the purchased utility service or electric power provider's rates have been decreased to the utility in the prior three years without the utility filing with the Commission for a pass-through decrease in rates. This is similar to the existing rule provision for filing information about ad valorem tax changes.

Subsection (4) is amended to reflect a statutory change allowing DEP's National Pollutant Discharge Elimination System Program costs to be passed through. The amendment to subsection (5)(c) clarifies that it is the rate of return on equity that the utility should not exceed as a result of the change in rates. This is consistent with the statutory language.

Statement of Estimated Regulatory Costs

Because there should be no significant additional costs or impacts as a result of the changes to these rules, preparation of a Statement of Estimated Regulatory Costs (SERC) is not necessary. A memorandum regarding a SERC is attached.

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ISSUE 3: If no requests for hearing or comments are filed, should the rules as proposed be filed for adoption with the Secretary of State and the docket be closed?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Unless comments or requests for hearing are filed, the rules as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

Attachments:

Rules

Memorandum regarding Statement of Estimated
Regulatory Costs

1
2 25-30.420 Establishment of Price Index, Adjustment of Rates;
3 Requirement of Bond; Filings After Adjustment; Notice to Customers.

4 (1) The Commission shall, on or before March 31 of each year,
5 establish a price increase or decrease index as required by section
6 367.081(4)(a), F. S. The Division of Records and Reporting shall
7 mail each regulated water and wastewater utility a copy of the
8 proposed agency action order establishing the index for the year
9 and a copy of the application. Applications for the newly
10 established price index will be accepted from April 1 of the year
11 the index is established through March 31 of the following year.

12 (a) The index shall be applied to all operation and
13 maintenance expenses, except for amortization of rate case expense.
14 costs subject to pass-through adjustments pursuant to section
15 367.081(4)(b), F.S., and adjustments or disallowances made in a
16 utility's most recent rate proceeding. ~~In determining major-~~
17 ~~categories of operating costs to which the index will apply, the~~
18 ~~Commission may consider whether the cost category is material to~~
19 ~~the operation of water and wastewater utilities, whether the cost~~
20 ~~category is applicable to all utilities regardless of size and~~
21 ~~geographic location, and whether sufficient data is available~~
22 ~~regarding price increases or decreases.~~

23 (b) In establishing the price index indices ~~for major~~
24 ~~categories of operating costs~~, the Commission shall ~~may~~ consider
25 cost statistics compiled by government agencies or bodies, and may

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

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2 consider cost data supplied by utility companies or other
3 interested parties, applicable wage and price guidelines, or other
4 relevant available data.

5 (2) Any utility seeking to increase or decrease its rates
6 based upon the application of the index ~~indices~~ established
7 pursuant to subsection (1) and as authorized by section
8 367.081(4)(a), F. S., shall file an original and five copies of a
9 notice of intention and the materials listed in (a) through (g)
10 below with the Commission's Division of Water and Wastewater at
11 least 60 days prior to the effective date of the increase or
12 decrease. The adjustment in rates shall take effect on the date
13 specified in the notice of intention unless the Commission finds
14 that the notice of intention or accompanying materials do not
15 comply with the law, or the rules or orders of the Commission. The
16 notice shall be accompanied by:

17 (a) Revised tariff sheets;

18 (b) A computation schedule showing the increase or decrease in
19 annual revenue that will result when the index is applied;

20 (c) The affirmation required by section 367.081(4)(c), F. S.;

21 (d) A copy of the notice to customers required by subsection
22 (6);

23 (e) The rate of return on equity that the utility is affirming
24 it will not exceed pursuant to section 367.081(4)(c), F. S.;

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2 (f) An annualized revenue figure for the test year used in the
3 index calculation reflecting the rate change, along with an
4 explanation of the calculation, if there has been any change in the
5 utility's rates during or subsequent to the test year;

6 (g) The utility's Department of Environmental Protection
7 Public Water System identification number and Wastewater Treatment
8 Plant Operating Permit number.

9 (3) The Commission, upon its own motion, may implement an
10 increase or decrease in the rates of a utility based upon the
11 application of the index indices established pursuant to subsection
12 (1) and as authorized by section 367.081(4)(a), F. S. The
13 Commission may require a utility to file any of the information
14 required in subsection (2).

15 (4) Upon a finding of good cause, the Commission may require
16 that a rate increase pursuant to section 367.081(4)(a), F. S., be
17 implemented under a bond ~~or of~~ corporate undertaking in the same
18 manner as interim rates. For purposes of this subsection, "good
19 cause" shall include:

20 (a) Inadequate service by the utility;

21 (b) Inadequate record-keeping by the utility such that the
22 Commission is unable to determine whether the utility is entitled
23 to implement the rate increase or decrease under this rule.

24 (5) After a rate adjustment pursuant to this rule, the
25 Commission may require a utility to file with it such information

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2 required in Rule 25-30.436, F. A. C., that is necessary to
3 determine whether the utility has exceeded its last authorized rate
4 of return.

5 (6) Prior to the time a customer begins consumption at the
6 rates established by application of the index, the utility shall
7 notify each customer of the increase ~~for decrease~~ authorized and
8 explain the reasons therefor.

9 (7) No utility shall file a notice of intention ~~implement a~~
10 ~~rate increase~~ pursuant to this rule unless the utility has on file
11 with the Commission an ~~a current~~ annual report as required by Rule
12 25-30.110(3), F. A. C., for the test year specified in the order
13 establishing the index for the year.

14 (8) No utility shall implement a rate increase pursuant to
15 this rule within one year of the official date that it filed a rate
16 proceeding, unless the rate proceeding has been completed or
17 terminated.

18 Specific Authority 350.127(2), 367.081(4)(a), 367.121 (1)(f) F.S.

19 Law Implemented 367.081(4), F.S.

20 History--New 4-5-81, Amended 9-16-82, Formerly 25-10.185, Amended
21 11-10-86, 6-5-91, _____.

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2 25-30.425 Pass Through Rate Adjustment. The verified notice
3 to the Commission of an adjustment of rates under the provisions of
4 section 367.081(4)(b), F. S., shall be made in the following
5 manner:

6 (1) Prior to an adjustment in rates because of an increase or
7 decrease in purchased utility service, the utility shall file:

8 (a) A certified copy of the order, ordinance or other
9 evidence whereby the rates for utility service are increased or
10 decreased by the governmental agency or by a water or wastewater
11 utility regulated by the Commission, along with evidence of the
12 utility service rates of that governmental agency or water or
13 wastewater utility in effect on January 1 of each of the three
14 preceding years.

15 (b) A statement setting out by month the charges for utility
16 services purchased from the governmental agency or regulated
17 utility for the most recent 12-month period.

18 (c)1. A statement setting out by month the gallons of water or
19 wastewater treatment purchased from the governmental agency or
20 regulated utility for the most recent 12-month period. If
21 wastewater treatment service is not based on a metered flow, the
22 number of units by which the service is measured shall be stated.

23 2. A statement setting out by month gallons of water and
24 units of wastewater service sold by the utility for the most recent
25 12-month period.

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2 (d) A statement setting out by month the gallons of water or
3 wastewater treatment purchased from any other government entity or
4 utility company.

5 (e) A statement setting out by month the gallons of water
6 pumped or wastewater treated by the utility filing the verified
7 notice.

8 (f) If the total water available for sale is in excess of
9 10% of the water sold, a statement explaining the unaccounted for
10 water.

11 (2) Prior to an adjustment in rates because of an increase or
12 decrease in the charge for electric power the utility shall file
13 with the Commission:

14 (a) A certified copy of the order, ordinance or other
15 evidence which establishes that the rates for electric power have
16 been increased or decreased by the supplier, along with evidence of
17 the electric power rates of the supplier in effect on January 1 of
18 each of the three preceding years.

19 (b) A schedule showing, by month, the charges for electric
20 power and consumption for the most recent 12 month period, the
21 charges that would have resulted had the new electric rates been
22 applied, and the difference between the charges under the old rates
23 and the charges under the new rates.

24 (c) A statement outlining the measures taken by the utility
25 to conserve electricity.

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2 (3) Prior to an adjustment in rates because of an increase or
3 decrease in ad valorem taxes the utility shall file with the
4 Commission:

5 (a) A copy of the ad valorem tax bills which increased or
6 decreased and copies of the previous three years' bills; if copies
7 have been submitted previously, a schedule showing the tax total
8 only is acceptable; and

9 (b) A calculation of the amount of the ad valorem taxes
10 related to that portion of the water or wastewater plant not used
11 and useful in providing utility service.

12 (4) Prior to an adjustment in rates because of an increase or
13 decrease in the costs of water quality or wastewater quality
14 testing required by the Department of Environmental Protection
15 (DEP) Regulation, or because of an increase or decrease in the fees
16 charged by DEP in connection with the National Pollutant Discharge
17 Elimination System Program, the utility company shall file with the
18 Commission:

19 (a) A copy of the invoice for testing;

20 (b) Calculation of the amortized amount.

21 (5) In addition to (1), (2), ~~and (3)~~, and (4) above, the
22 utility shall also file:

23 (a) A schedule of proposed rates which will pass the
24 increased or decreased costs on to the customers in a fair and
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2 nondiscriminatory manner and on the basis of current customers, and
3 a calculation showing how the rates were determined;

4 (b) A statement, by class of customer and meter size, setting
5 out by month the gallons of water and units of wastewater service
6 sold by the utility for the most recent 12 month period. This
7 statement shall not be required in filings for the pass through of
8 increased regulatory assessment fees or ad valorem taxes~~;~~

9 (c) The affirmation reflecting the authorized rate of return
10 on equity required by section 367.081(4)(c), F. S.; and

11 (d) A copy of the notice to customers required by subsection
12 (7) of this rule;

13 (e) Revised tariff sheets reflecting the increased rates; and

14 (f) The rate of return that the utility is affirming it will
15 not exceed pursuant to section 367.081(4)(c), F. S.; and

16 (g) The utility's DEP Public Water System identification
17 number and Wastewater Treatment Plant Operating Permit number;

18 (6) In order for the Commission to determine whether a
19 utility which had adjusted its rates pursuant to section
20 367.081(4)(b), F. S., has thereby exceeded the range of its last
21 authorized rate of return, the Commission may require a utility to
22 file the information required in Rule 25-30.437, F. A. C., for the
23 test year specified.

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2 (7) Prior to the time a customer begins consumption at the
3 adjusted rates, the utility shall notify each customer of the
4 increase authorized and explain the reasons for the increase.

5 (8) The utility shall file an original and five copies of the
6 verified notice and supporting documents with the Division of Water
7 and Wastewater. The rates shall become effective 45 days after the
8 official date of filing. The official date of filing is the date
9 the utility files a verified notice of adjustment of rates and
10 supporting documents that satisfy the minimum filing requirements
11 of this rule. The Director of the Division of Water and Wastewater
12 determines whether the filing satisfies the minimum requirements.
13 ~~The official date of filing for the verified notice to the~~
14 ~~Commission of adjustment in rates shall be at least 45 days before~~
15 ~~the new rates are implemented.~~

16 Specific Authority 350.127(2), 367.121(1)(f), F.S.

17 Law Implemented 367.081(4), F.S.

18 History--New 6-10-75, Amended 4-5-79, 4-5-81, 10-21-82, Formerly
19 25-10.179, Amended 11-10-86, 6-5-91, _____.

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MEMORANDUM

March 30, 1998 MAR 31 11:03

TO: DIVISION OF APPEALS (MOORE)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (HEWITT) *CBH SN CMH*

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COSTS FOR PROPOSED REVISIONS TO RULES 25-30.420, F.A.C., ESTABLISHMENT OF PRICE INDEX, ETC., AND 25-30.425, F.A.C., PASS THROUGH RATE ADJUSTMENT

Currently, Rules 25-30.420, F.A.C., Establishment of Price Index, Etc., and 25-30.425, F.A.C., Pass Through Rate Adjustment, contain requirements and information for price index increases and other utility cost changes that are passed through in rates. The amendments would add information, clarify requirements, and require additional readily available information to be included in the applications for the latest established price index pass through. Also, the Florida Department of Environmental Protection fees imposed from the National Pollutant Discharge Elimination System (NPDES) would be an eligible pass through item. This additional item is authorized by Section 367.081(4)(b), F.S., and allows a utility to pass the fee through "automatically." Therefore, any additional regulatory costs would be the result of the statutory change, and not as a result of codifying the pass through in PSC rules.

The Administrative Procedures Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). However, because there should be no significant additional costs or impacts, a SERC is not necessary for the proposed rule changes.

Please keep my name on the CASR.

CBH:tf/e-wwndx