

DOCKET NO. 980561-WS

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

I do hereby certify:

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

(2) There is no administrative determination under subsection 120.56(2), 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(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

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

CMU _____ or

CTR _____ (c) Are filed more than 90 days after the notice, but
EAG _____ not less than 21 days nor more than 45 days from the date of
LEG _____ publication of the notice of change; or
LIN _____

OPC _____ (d) Are filed more than 90 days after the notice by
RCH _____
SEC not less than 14 nor more than 45 days after the adjournment of

WAS _____
OTH _____

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the final public hearing on the rule; or

(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; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

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 Nos.

25-30.420

25-30.425

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)

CTM

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

3 (1) The Commission shall, on or before March 31 of each year,
4 establish a price increase or decrease index as required by section
5 367.081(4)(a), F. S. The Division of Records and Reporting shall
6 mail each regulated water and wastewater utility a copy of the
7 proposed agency action order establishing the index for the year
8 and a copy of the application. Form PSC/WAW 15 (/), entitled
9 "Index Application", is incorporated into this rule by reference
10 and may be obtained from the Commission's Division of Water and
11 Wastewater. Applications for the newly established price index
12 will be accepted from April 1 of the year the index is established
13 through March 31 of the following year.

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

25 (b) In establishing the price index indices ~~major~~

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1 ~~categories of operating costs~~, the Commission will ~~may~~ consider
2 cost statistics compiled by government agencies or bodies, cost
3 data supplied by utility companies or other interested parties, and
4 applicable wage and price guidelines, ~~or other relevant available~~
5 ~~data~~.

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

18 (a) Revised tariff sheets;

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

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

22 (d) A copy of the notice to customers required by subsection
23 (6);

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

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

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

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

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

19 (a) Inadequate service by the utility;

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

23 ~~(5) After a rate adjustment pursuant to this rule, the~~
24 ~~Commission may require a utility to file with it such information~~
25 ~~required in Rule 25-30.436, F. A. C., that is necessary to~~

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1 ~~determine whether the utility has exceeded its last authorized rate~~
2 ~~of return.~~

3 ~~(5)(6)~~ Prior to the time a customer begins consumption at the
4 rates established by application of the index, the utility shall
5 notify each customer of the increase ~~(or decrease)~~ authorized and
6 explain the reasons therefor.

7 ~~(6)(7)~~ No utility shall file a notice of intention implement
8 ~~a rate increase~~ pursuant to this rule unless the utility has on
9 file with the Commission an ~~a current~~ annual report as required by
10 Rule 25-30.110(3), F. A. C., for the test year specified in the
11 order establishing the index for the year.

12 (7)~~(8)~~ No utility shall implement a rate increase pursuant to
13 this rule within one year of the official date that it filed a rate
14 proceeding, unless the rate proceeding has been completed or
15 terminated.

16 Specific Authority 350.127(2), 367.081(4)(a), 367.121(1)(c),
17 367.121(1)(f) F.S.

18 Law Implemented 367.081(4), 367.121(1)(c), 367.121(1)(g), F.S.

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

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1 25-30.425 Pass Through Rate Adjustment. The verified notice
2 to the Commission of an adjustment of rates under the provisions of
3 section 367.081(4)(b), F. S., shall be made in the following
4 manner:

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

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

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

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

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

25 (d) A statement setting out by month the gallons of water or

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1 wastewater treatment purchased from any other government entity or
2 utility company.

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

6 (f) If the total water available for sale is in excess of
7 110% of the water sold, a statement explaining the unaccounted for
8 water.

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

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

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

22 (c) A statement outlining the measures taken by the utility
23 to conserve electricity.

24 (3) Prior to an adjustment in rates because of an increase or
25 decrease in ad valorem taxes the utility shall file with the

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1 Commission:

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

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

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

15 Commission:

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

17 (b) Calculation of the amortized amount.

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

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

24 (b) A statement, by class of customer and meter size, setting
25 out by month the gallons of water and units of wastewater service

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1 sold by the utility for the most recent 12 month period. This
2 statement shall not be required in filings for the pass through of
3 increased regulatory assessment fees or ad valorem taxes;~~17~~

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

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

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

9 (f) The rate of return on equity that the utility is
10 affirming it will not exceed pursuant to section 367.081(4)(c), F.
11 S.; ~~and~~

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

14 (6) The amount authorized for pass through rate adjustments
15 shall not exceed the actual cost incurred and shall not exceed the
16 incremental increase or decrease for the 12-month period.
17 Foregone pass through decreases shall not be used to adjust a pass
18 through increase below the actual cost incurred.

19 ~~(7)-(6)~~ In order for the Commission to determine whether a
20 utility which had adjusted its rates pursuant to section
21 367.081(4)(b), F. S., has thereby exceeded the range of its last
22 authorized rate of return, the Commission may require a utility to
23 file the information required in Rule 25-30.437, F. A. C., for the
24 test year specified.

25 ~~(8)-(7)~~ Prior to the time a customer begins consumption at the

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1 | adjusted rates, the utility shall notify each customer of the
2 | increase authorized and explain the reasons for the increase.

3 | ~~(9)-(8)~~ The utility shall file an original and five copies of
4 | the verified notice and supporting documents with the Division of
5 | Water and Wastewater. The rates shall become effective 45 days
6 | after the official date of filing. The official date of filing for
7 | the verified notice to the Commission of adjustment in rates shall
8 | be at least 45 days before the new rates are implemented.

9 | Specific Authority 350.127(2), 367.121(1)(c), 367.121(1)(f), F.S.

10 | Law Implemented 367.081(4), 367.121(1)(c), 367.121(1)(g), F.S.

11 | History--New 6-10-75, Amended 4-5-79, 4-5-81, 10-21-82, Formerly
12 | 25-10.179, Amended 11-10-86, 6-5-91, _____.

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CERTIFICATION OF
FORM INCORPORATED BY REFERENCE
IN RULES FILED WITH THE DEPARTMENT OF STATE

Pursuant to Rule 1S-1.005, Florida Administrative Code, I do hereby certify that the attached are true and correct copies of the following form incorporated by reference in Rule 25-30.420. Under the provisions of subparagraph 120.54(3)(e)(6), F.S., the attached form takes effect 20 days from the date filed with the Department of State, or a later date as specified in the rule.
Form PSC/WAW 15 (04/99) - "Index Application"



BLANCA S. BAYO, Director
Division of Records & Reporting

Number of Pages Certified

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FLORIDA PUBLIC SERVICE COMMISSION
 (year) INDEX APPLICATION
 TEST YEAR ENDED DECEMBER 31, _____

DEP PWS ID NO. _____ WATER WASTEWATER
 DEP WWTP ID NO. _____

* _____ Operation and Maintenance Expenses	\$		\$
(year)			
LESS:			
(a) Pass-through Items:			
(1) Purchased Power			
(2) Purchased Water			
(3) Purchased Wastewater Treatment			
** (4) DEP Required Water Testing			
*** (5) DEP Required Wastewater Testing			
(6) NPDES Fees			
(b) Rate Case Expense Included in _____ (year) Expenses			
(c) Adjustments to O & M Expenses from last rate case, if applicable:			
(1)			
(2)			
Costs to be Indexed	\$		\$
Multiply by change in GDP Implicit Price Deflator Index			
Indexed Costs	\$		\$
****Add Pass-Through Items:			
(1)			
(2)			
Divide Index and Pass-Through Sum by Expansion Factor for Regulatory Assessment Fees			
Increase in Revenue	\$		\$
*****Divide by _____ (year) Revenue			
Percentage Increase in Rates			

EXPLANATORY NOTES APPEAR ON THE FOLLOWING PAGE

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 93 MAR 29 PM 3:39
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PAGE 1 NOTES

- * This amount must match _ _ _ _ (year) annual report.
- ** Testing for volatile organic and unregulated contaminants pursuant to DEP Rule 62-550.590, F.A.C., and lead and copper testing pursuant to DEP Rule 62-551.450, F.A.C.
- *** Routine daily, weekly, or monthly testing required by the Department of Environmental Protection (DEP) not currently included in the utility's rates.
- **** This may include an increase in purchased power, purchased water, purchased wastewater treatment, required DEP testing, and ad valorem taxes, providing that those increases have been incurred within the 12 month period prior to the submission of the pass-through application. Pass-through NPDES fees and increases in regulatory assessment fees are eligible as pass-through costs but not subject to the twelve month rule. DEP water and wastewater testing pass-throughs require invoices. See Rule 25-30.425, F.A.C. for more information.
- ***** If rates changed after January 1, _ _ _ _ , the book revenues must be adjusted to show the changes and an explanation of the calculation should be attached to this form. See Appendix 'B' for instructions and a sample format.

I, the undersigned owner/officer of the above-named utility, have read the foregoing and declare that, to the best of my knowledge and belief, the information contained in this application is true and correct.

I am aware that pursuant to section 837.06, F S., 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.

Utility Official _____ Title _____
(Signature)

(Name-Please Print) Date _____

Telephone Number _____

Fax Number _____

SUMMARY OF RULE

The amendments to Rule 25-30.420 codify requirements for the agency to mail copies of the order establishing the annual price index to each utility; incorporates a form; specifies what the index will be applied to and what the agency will consider in establishing the index; requires a utility to furnish identification and permit numbers; and requires the utility to have a certain annual report on file before notifying the agency of price index increase. The amendments to Rule 25-30.425 require additional information from a utility; reflect changes to the law implemented; and clarify existing language.

SUMMARY OF HEARINGS ON THE RULE

A public hearing was conducted by the full Commission on December 11, 1998. Participating in the hearing were Florida Water Services Corporation (FWSC), the Citizens of the State of Florida represented by the Office of Public Counsel (OPC), and Commission staff. Staff presented information about the background and intent of the proposed rule changes. Counsel for FWSC presented its concerns that Rule 25-30.425 not be interpreted as permitting offsets against increases if a utility company has foregone previous increases such that the resulting increase that is passed through is less than the amount actually being charged to the company. Staff and OPC presented their concerns that a utility not be able pass through an increase that

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is greater than the amount actually being charged to the company by reason of having foregone a previous decrease.

A second public hearing was conducted by the full Commission on February 16, 1999. The Commission approved changes that were supported by the record of the rulemaking proceedings and comments received from the Joint Administrative Procedures Committee.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Rules 25-30.420 and 25-30.425 required changes to recognize amendments to the law implemented; to codify certain administrative practices of the Commission; to clarify unclear provisions; and to require additional information from the utilities that is readily available to them and which will assist the Commission in performing its regulatory responsibilities.