

State of Florida



Public Service Commission  
-M-E-M-O-R-A-N-D-U-M-

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**DATE:** February 21, 2002 (By Facsimile)  
**TO:** Charles Beck for Office of Public Counsel  
Stephen Burgess for Office of Public Counsel  
Martin Friedman for Burkim Enterprises  
Ben Girtman for Utilities, Inc.  
Marty McDonnell for Florida Water Services, Inc.  
Frank Seidman for Utilities, Inc.  
**FROM:** Christiana T. Moore, Office of the General Counsel *CTM*  
Marshall Willis, Division of Economic Regulation  
**RE:** Docket No. 001502-WS, Meeting and Revised Draft of Rule 25-30.0371, Acquisition Adjustment

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This memorandum is to confirm the time and place of our next meeting and to forward a copy of the revised version of Rule 25-30.0371. As we agreed, the meeting is scheduled for the following time and place:

9:30 a.m., Tuesday, February 26, 2002  
Room 309, Gunter Building

Attached is the revised draft of the rule, presented alongside an explanation of each subsection of the rule. Please call us if you have any questions. We look forward to seeing you next Tuesday.

c: Division of Commission Clerk & Administrative Services

DOCUMENT NUMBER DATE

02139 FEB 22 2002

FPSC-COMMISSION CLERK

25-30.0371 Acquisition Adjustments.

RULE TEXT	EXPLANATION
<p>(1) Definition. For the purpose of this rule, an acquisition adjustment is defined as the difference between the purchase price of utility system assets to an acquiring utility and the net book value of the utility assets. A positive acquisition adjustment exists when the purchase price is greater than the net book value. A negative acquisition adjustment exists when the net book value is greater than the purchase price.</p>	<p>Section (1) of the attached rule defines “acquisition adjustment” as “the difference between the purchase price of utility system assets to an acquiring utility and the net book value of the utility assets” and describes when a positive or negative acquisition adjustment exists.</p>
<p>(2) Positive Acquisition Adjustments. A positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. Any entity that believes a full or partial positive acquisition adjustment should be made has the burden to prove the existence of those extraordinary circumstances. In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as anticipated improvements in quality of service, anticipated improvements in compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, and anticipated cost efficiencies.</p>	<p>Section (2) provides that a positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. This section also provides that the entity which believes such an adjustment should be made has the burden to prove the existence of extraordinary circumstances. This is consistent with the Commission’s decision In re Wedgefield Utilities, Order No. PSC-98-1092-FOF-WS, issued August 12, 1998, in Docket No. 960235-WS. In addition, the section lists certain factors the Commission will consider to determine whether there are extraordinary circumstances justifying a positive adjustment.</p> <p>For a positive acquisition adjustment (where the purchase price is greater than the net book value of the utility’s assets), section (2) of the rule provides that the Commission will consider anticipated improvements in quality of service, anticipated compliance with regulatory mandates, anticipated rate reductions, and anticipated cost efficiencies. These factors are listed by way of example, and other evidence may be offered.</p>

<p>(3) Negative Acquisition Adjustments. A negative acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances or where the purchase price is less than 80 percent of net book value. If the purchase price is less than 80 percent of net book value then the inclusion of a negative acquisition adjustment shall be calculated pursuant to section (b) below.</p>	<p>Section (3) provides that a negative acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances or where the purchase price is less than 80 percent of net book value. If the purchase price is less than 80 percent of net book value, then it requires the inclusion of a negative acquisition adjustment calculated pursuant to section (3)(b)</p>
<p>(a) Contested. Any entity that believes a full or partial negative acquisition adjustment should be made has the burden to prove the existence of those extraordinary circumstances. Under no circumstance, however, shall the purchaser be required to record on its books more than 70 percent of a negative acquisition adjustment. In determining whether extraordinary circumstances have been demonstrated, the Commission will consider evidence provided to the Commission such as the anticipated retirement of the acquired assets and the condition of the assets acquired.</p>	<p>Section (3)(a) provides that the entity that believes that a negative acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. This is consistent with the Commission's decision in Order No. PSC-98-1092-FOF-WS. This section also provides an incentive to the utility company to try and negotiate the best price possible. It provides that only 70 percent of the acquisition adjustment can be booked if an entity proves extraordinary circumstances. In addition, this section lists certain factors the Commission will consider to determine whether there are extraordinary circumstances justifying a negative adjustment. These factors include the anticipated retirement of the acquired assets and the condition of the assets acquired. These factors are listed by way of an example, and other evidence may be offered.</p>

<p>(b) Uncontested. If the purchase price is less than 80 percent of net book value, then the amount of the difference in excess of 20 percent of net book value shall be recognized for ratemaking purposes as a negative acquisition adjustment, but not used for any earnings review unless the purchaser files for a rate increase pursuant to section 367.081(2), 367.0814, 367.0817 or 367.0822, F.S. The negative acquisition adjustment shall be amortized over a 5-year period from the date of the order approving the transfer of assets unless a shorter or longer period can be justified.</p>	<p>Section (3)(b) outlines the treatment when the purchase price is less than 80 percent of net book value. This section requires that the amount that exceeds 20 percent of net book value be booked as a negative acquisition adjustment as an incentive for the utility not to file for a rate increase. The section establishes an amortization period for the acquisition adjustment of five years unless another period is justified. If the utility does not file for a rate increase during the amortization period, then the negative acquisition adjustment is not recognized for any review of earnings. If the utility does file for a rate increase during the amortization period, the unamortized negative acquisition adjustment is recognized and used to test the earnings level and the need for a rate increase. The 20 percent that was not booked as a negative acquisition adjustment would not be recognized.</p>
<p>(4) Amortization Period. In setting the amortization period for a Commission approved acquisition adjustment pursuant to (2) or (3)(a) above, the Commission will take into account the composite remaining life of the assets purchased or the condition of the assets purchased. Amortization of the acquisition adjustment shall begin on the date of the order approving the transfer of assets.</p>	<p>Section (4) requires the Commission to establish an amortization period for any approved acquisition adjustment except for one booked under (3)(b) above. It also lists some factors that the Commission will take into consideration when establishing the amortization period.</p>

(5) Subsequent Modification. Any full or partial acquisition adjustment, once made by the Commission, may be subsequently modified if the extraordinary circumstances do not materialize or subsequently are eliminated or changed within five years of the date of the order approving the transfer of assets.

Section (5) of the rule authorizes the Commission to subsequently modify an acquisition adjustment if the circumstances that initially justified it do not materialize, or if they are eliminated or changed within five years. Five years is believed to be a reasonable time in which to evaluate the circumstances justifying an adjustment. The Commission took this action in a docket involving Chesapeake Utility Corporation. The Commission approved a positive acquisition adjustment for Central Florida Gas Company to reflect expected savings from the company's acquisition by Chesapeake. Order No. 18716, issued January 26, 1988, in Docket No. 870118-GU. In a subsequent rate review, the Commission found that the predicted savings never materialized and removed the acquisition adjustment from rate base. Order No. 23166, issued July 10, 1990, in Docket No. 891179-GU.