

ORIGINAL

STATE OF FLORIDA

COMMISSIONERS:
LILA A. JABER, CHAIRMAN
J. TERRY DEASON
BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON



OFFICE OF THE GENERAL COUNSEL
HAROLD A. MCLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

October 10, 2003

Mr. Carroll Webb
Joint Administrative Procedures
Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

RECEIVED-FPSC
03 OCT 10 PM 1:41
COMMISSION
CLERK

RE: Docket No. 030830-WS - Rule No. 25-30.420, F.A.C.

Dear Mr. Webb:

Enclosed is an original copy of the following materials concerning the above referenced proposed rule:

1. A copy of the rule.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rule.
4. A federal standards statement.
5. No statement of estimated regulatory costs was prepared.

If there are any questions with respect to this rule, please do not hesitate to call me.

Sincerely,

Samantha M. Cibula
Samantha M. Cibula
Senior Attorney

030830JAPC.SMC
Enclosures
cc: Division of the Commission Clerk
and Administrative Services

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
MMS
SEC
OTH

DOCUMENT NUMBER-DATE
09929 OCT 10 09
FPSC-COMMISSION CLERK

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 the Commission Clerk and
6 | Administrative Services shall mail each regulated water and
7 | wastewater utility a copy of the proposed agency action order
8 | establishing the index for the year and a copy of the application.
9 | Form PSC/ECR 15 (04/99), entitled "Index Application", is
10 | incorporated into this rule by reference and may be obtained from
11 | the Commission's Division of Economic Regulation. Applications for
12 | the newly established price index will be accepted from April 1 of
13 | the year the index is established through March 31 of the following
14 | year.

15 | (a) The index shall be applied to all operation and
16 | maintenance expenses, except for amortization of rate case expense,
17 | costs subject to pass-through adjustments pursuant to section
18 | 367.081(4) (b), F.S., and adjustments or disallowances made in a
19 | utility's most recent rate proceeding.

20 | (b) In establishing the price index, the Commission will
21 | consider cost statistics compiled by government agencies or bodies,
22 | cost data supplied by utility companies or other interested
23 | parties, and applicable wage and price guidelines.

24 | (2) Any utility seeking to increase or decrease its rates
25 | based upon the application of the index established pursuant to

CODING: Words underlined are additions; words in ~~struck~~
~~through~~ type are deletions from existing law.

1 subsection (1) and as authorized by section 367.081(4)(a), F.S.,
2 shall file an original and five copies of a notice of intention and
3 the materials listed in (a) through (i) ~~(g)~~ below with the
4 Commission's Division of Economic Regulation at least 60 days prior
5 to the effective date of the increase or decrease. The adjustment
6 in rates shall take effect on the date specified in the notice of
7 intention unless the Commission finds that the notice of intention
8 or accompanying materials do not comply with the law, or the rules
9 or orders of the Commission. The notice shall be accompanied by:

10 (a) Revised tariff sheets;

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

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

14 (d) A copy of the notice to customers required by subsection
15 (6);

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

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

23 (g) The utility's Department of Environmental Protection
24 Public Water System identification number and Wastewater Treatment
25 Plant Operating Permit number.

CODING: Words underlined are additions; words in ~~struck~~
~~through~~ type are deletions from existing law.

1 (h) A statement that the utility does not have any active
2 written complaints, corrective orders, consent orders, or
3 outstanding citations with the Department of Environmental
4 Protection (DEP) or the County Health Department(s) or that the
5 utility does have active written complaints, corrective orders,
6 consent orders, or outstanding citations with the DEP or the County
7 Health Department(s).

8 (i) A copy of any active written complaints, corrective
9 orders, consent orders, or outstanding citations with the
10 Department of Environmental Protection (DEP) or the County Health
11 Department(s).

12 (3) If the Commission, upon its own motion, implements an
13 increase or decrease in the rates of a utility based upon the
14 application of the index established pursuant to subsection (1) and
15 as authorized by section 367.081(4)(a), F.S., the Commission will
16 require a utility to file the information required in subsection
17 (2).

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

23 (a) Inadequate service by the utility;

24 (b) Inadequate record-keeping by the utility such that the

25 Commission is unable to determine whether the utility is entitled

CODING: Words underlined are additions; words in ~~struck~~
~~through~~ type are deletions from existing law.

1 | to implement the rate increase or decrease under this rule.

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

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

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

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

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

18 | History: New 04/05/81, Amended 09/16/82, Formerly 25-10.185,
19 | Amended 11/10/86, 06/05/91, 04/18/99, XX/XX/XX.

20 |

21 |

22 |

23 |

24 |

25 |

CODING: Words underlined are additions; words in ~~struck~~
~~through~~ type are deletions from existing law.

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 030830-WS

RULE TITLE:

RULE NO.:

Establishment of Price Index, Adjustment of

25-30.420

Rates; Requirement of Bond; Filings After

Adjustment; Notice to Customers

PURPOSE AND EFFECT: To provide the Commission with the information necessary to investigate and make a determination of a utility's quality of service pursuant to section 367.081(4)(a), F.S.

SUMMARY: The rule amendment will require water and wastewater utilities to provide a statement as to whether the utility has any active written complaints, corrective orders, consent orders, or outstanding citations with the Department of Environmental Protection or the County Health Departments in price index applications. If the utility has any such complaints, corrective orders, consent orders, or citations, a copy of those must be filed with the Commission.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs was prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal

for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 367.081(4)(a), 367.121(1)(c), 367.121(1)(f), F.S.

LAW IMPLEMENTED: 367.081(4), 367.121(1)(c), 367.121(1)(g), F.S.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

Samantha M. Cibula, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6202.

THE FULL TEXT OF THE PROPOSED RULE IS:

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

(1) No change.

(2) Any utility seeking to increase or decrease its rates based upon the application of the index established pursuant to subsection (1) and as authorized by section 367.081(4)(a), F.S.,

shall file an original and five copies of a notice of intention and the materials listed in (a) through (i) ~~(g)~~ below with the Commission's Division of Economic Regulation at least 60 days prior to the effective date of the increase or decrease. The adjustment in rates shall take effect on the date specified in the notice of intention unless the Commission finds that the notice of intention or accompanying materials do not comply with the law, or the rules or orders of the Commission. The notice shall be accompanied by:

(a) - (g) No change.

(h) A statement that the utility does not have any active written complaints, corrective orders, consent orders, or outstanding citations with the Department of Environmental Protection (DEP) or the County Health Department(s) or that the utility does have active written complaints, corrective orders, consent orders, or outstanding citations with the DEP or the County Health Department(s).

(i) A copy of any active written complaints, corrective orders, consent orders, or outstanding citations with the Department of Environmental Protection (DEP) or the County Health Department(s).

(3) - (7) No change.

Specific Authority: 350.127(2), 367.081(4)(a), 367.121(1)(c),

367.121(1)(f), F.S.

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

History: New 04/05/81, Amended 09/16/82, Formerly 25-10.185,
Amended 11/10/86, 06/05/91, 04/18/99, XX/XX/XX.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ryan Fitch

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:

Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: September 30, 2003.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April
11, 2003, Vol. 29, No. 15.

**STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE**

The Commission, pursuant to Section 367.081(4) (a) and Rule 25-30.420, reviews a utility's quality of service prior to implementing a price index rate increase. If a utility is found to have inadequate service, the Commission may hold any rate increase subject to refund with adequate security. In this regard, Rule 25-30.420(4) states that:

[u]pon a finding of good cause, the Commission may require that a rate increase pursuant to section 367.081(4) (a), Florida Statutes, be implemented under a bond or corporate undertaking in the same manner as interim rates. For purposes of this subsection "good cause" shall include:

- (a) Inadequate service by the utility;
- (b) Inadequate record-keeping by the utility such that the Commission is unable to determine whether the utility is entitled to implement the rate increase or decrease under the rule.

Under the current rule, a Commission staff engineer is assigned to determine whether the utility's service is adequate for each price index application filed with the Commission. To determine whether service is adequate, the staff engineer contacts the different regulatory agencies with jurisdiction over the applying utility to determine if the utility has any active complaints, corrective orders, consent orders or outstanding citations with the agencies. The majority of the utilities filing index applications either have no outstanding complaints, corrective orders, consent orders or citations, or those that do are not considered to rise to the level of inadequate service.

In an effort to streamline the processing of index applications, the rule amendment requires that a water and/or wastewater utility to give a statement as to whether it has any active complaints, consent orders, corrective orders, or outstanding citations pending at the DEP or County Health Department and, if so, to provide copies of such to the Commission. This procedure will allow Commission staff to focus its efforts on investigating those utilities which may have

service problems.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.