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

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COMMISSION CLERK
FLORIDA

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

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

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

(d) Are filed more than 90 days after the notice, but

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not less than 14 nor more than 45 days after the adjournment of 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.

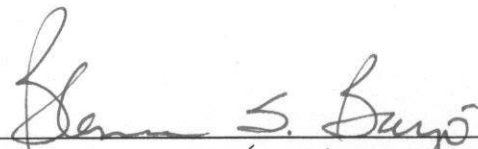
Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No.

25-30.420

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, Director
Division of the Commission Clerk
and Administrative Services

Number of Pages Certified



SMC

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

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~~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.

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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

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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.

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SUMMARY OF RULE

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 HEARINGS ON THE RULE

No hearing was requested and none was held.

FACTS AND CIRCUMSTANCES JUSTIFYING THE 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;

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DEPARTMENT OF ENVIRONMENTAL PROTECTION
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- (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 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.

Under the current rule, Commission staff researches every utility that files an application for a price index rate increase to determine whether there are any active written complaints, consent orders, corrective orders, or outstanding citations pending against the utility at the DEP or the County Health Department. Consequently, Commission staff spends an inordinate amount of time addressing the quality of service issue for utilities filing price index applications. For the past 12-month period, approximately 68 price index applications have been processed.

The amendment to Rule 25-30.420 will require a 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. The Commission believes the rule amendment will streamline the process for determining the adequacy of a utility's service. This procedure will also allow Commission staff to focus its efforts on investigating those utilities which may have service problems.