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Public Service Commission

January 19, 2005

Mr. Scott Boyd, Executive Director  
Joint Administrative Procedures  
Committee  
Room 120 Holland Building  
Tallahassee, Florida 32399-1300

Re: Docket No. 040246-WS

Dear Mr. Boyd:

Enclosed is the notice of change, which will be published in the Florida Administrative Weekly on January 28, 2005, and the statement of changes for the proposed Rule No. 25-30.457.

We plan to file the rule for adoption on February 21, 2005.

Sincerely,

Christiana T. Moore  
Associate General Counsel

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Enclosure  
cc: Division of the Commission Clerk  
and Administrative Services

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FLORIDA PUBLIC SERVICE COMMISSION

OFFICE OF THE GENERAL COUNSEL

DOCKET NO. 040246-WS

RULE NO:                      RULE TITLE:

25-30.457                      Limited Alternative Rate Increase

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Volume 30, No. 32, August 6, 2004, issue of the Florida Administrative Weekly:

**25-30.457 Limited Alternative Rate Increase.**

(1) As an alternative to a staff assisted rate case as described in Rules 25-30.455 and 25-30.456, F.A.C., water ~~and wastewater~~ utilities whose total gross annual operating revenues are \$150,000 or less for water service and wastewater utilities whose total gross annual operating revenues are or \$150,000 or less for wastewater service, ~~or \$300,000 or less on a combined basis,~~ may petition the Commission for a limited alternative rate increase of up to 20 percent applied to metered or flat recurring rates of all classes of service by submitting a completed application that includes the information required by sections (8) and (9) ~~and (10)~~. In accordance with section 367.0814(6), F.S., a utility that requests staff assistance waives its right to protest by agreeing to accept the final rates and charges approved by the Commission unless the final rates and charges would produce less revenue than the existing rates and charges. The original and two ~~five~~ copies of the application shall be filed with the Division of the Commission Clerk and Administrative Services

(2) – (6) No change.

~~(7) Any increase in operating revenues approved pursuant to this rule shall be limited to a maximum of 20 percent applied to metered or flat recurring rates of all classes of service.~~

(8) The Commission shall deny the application if a petitioner does not remit the fee, as provided by section 367.145, F.S., and Rule 25-30.020(2)(f), F.A.C., within 30 days after official acceptance of the application.

~~(8)~~(9) No change.

~~(9)~~(10) The petitioner shall provide a schedule showing:

(a) – (b) No change.

(11) through (13) renumbered as (10) through (12) No change.

~~(13)~~(14) In consideration of subsections (11) and (12) and ~~(13)~~, the utility agrees to hold any revenue increase granted under the provisions of this rule subject to refund with interest in accordance with Rule 25-30.360, F.A.C., for a period of 15 months after the filing of the utility's annual report required by section 367.121, F.S., for the year the adjustment in rates was implemented.

~~(14)~~(15) No change.

~~(15)~~(16) If, within 15 months after the filing of a utility's annual report required by section 367.121, F.S., the Commission finds that the utility exceeded the range of its last authorized rate of return on equity after an adjustment in rates, as authorized by this rule, was implemented within the year for which the report was filed, such overearnings ~~the Commission may order the utility to refund, up to the amount held subject to refund, with interest, shall be disposed of for the benefit of the customers as provided in Section 367.081(4)(d), Florida Statutes~~ the difference to the ratepayers and adjust rates accordingly.

~~(16)~~(17) No change.

~~(17)~~(18) In the event of a protest, the limit on the maximum increase provided in ~~(1)~~(7) above shall no longer apply.

~~(18)~~(19) No change.

Specific Authority: 350.127(2), 367.0814, 367.121(1)(a), F.S.

Law Implemented: 350.123, 367.0814, 367.121, 367.145(2), F.S.

History: New XX/XX/XX.

### Statement of Changes

Subsection (1) of Rule 25-30.457 is revised, pursuant to comments by Joint Administrative Procedures Committee (JAPC) staff, to make clear that the rate increase procedure provided by this rule is only available to a water or wastewater utility with gross revenues of \$150,000 or less for water service and \$150,000 or less for wastewater service. In addition, a technical change is made to reduce the number of copies of the application that a utility must file from an original and five to an original and two. Now that the Commission scans and electronically distributes documents that are filed, fewer copies are needed.

Subsection (7) is deleted to respond to JAPC staff's concern about a lack of criteria for the Commission to use to set an increase of less than 20 percent. Since the limitation is meant to advise utilities that they may only have a rate application handled under the abbreviated procedures provided by this rule for increases of not more than 20 percent, and the intent is not for the Commission to approve a lesser amount than the utility requests at the time it is requested, subsection (7) is deleted and a provision is added to subsection (1) that a utility may petition for an increase of up to 20 percent. This change in turn necessitated a change to the cross-reference in subsection (18), renumbered as (17).

In subsection (14), renumbered as (13), a citation to the specific rule that provides the method for calculating interest when a refund is ordered is added to address JAPC's concern that Rule 25-30.457 as proposed does not explicitly provide criteria governing the determination of interest.

Subsection (16), renumbered as (15), is revised to address the concerns of JAPC staff about the use of the term "may" in referring to the Commission's authority to order a refund with interest to ratepayers if it finds the utility overearned. The rule is changed to state that any overearnings shall be disposed of as provided in Section 367.081(4)(d), Florida Statutes.