

COMMISSIONERS:
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LISA POLAK EDGAR
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ART GRAHAM
RONALD A. BRISÉ

STATE OF FLORIDA



GENERAL COUNSEL
S. CURTIS KISER
(850) 413-6199

RECEIVED-FPSC

10 OCT 13 AM 10:41

COMMISSIONER
CLERK

Public Service Commission

October 13, 2010

Mr. Jon B. Stump
528 Majestic Oak Parkway
St. Augustine, FL 32092

CERTIFIED MAIL

Re: Docket No. 090468-WS - Application for grandfather certificate to operate water and wastewater utility in St. Johns County by Orangedale Utilities, Inc.

Dear Mr. Stump:

By Order No. PSC-10-0403-FOF-WS, issued on June 21, 2010, the Commission granted Orangedale Utilities Inc.'s application for grandfather certificates to provide water and wastewater services in St. Johns County. The third ordering paragraph of that Order requires you to provide documentation by August 31, 2010, that the utility's books and records have been set up using the National Association of Regulatory Utility Commissioners' (NARUC) Uniform System of Accounts (USoA), as required by Rule 25-30.110, Florida Administrative Code (F.A.C.). By letter dated June 28, 2010, staff reminded you of your obligation to provide documentation that the utility's books and records have been set up using NARUC's USoA by August 31, 2010. Since the expiration of that deadline, staff attempted to contact you numerous times to encourage compliance with Order No. PSC-10-0403-FOF-WS. Staff left voice messages for you on August 11, 12, 18, and 26, 2010 and e-mailed you on August 12, 26, and 27, 2010, to no avail. By letter dated September 20, 2010, I informed you that staff would extend the August 31, 2010 deadline to September 30, 2010, but that staff would recommend to the Commission that the utility be required to show cause in writing why it should not be fined up to \$5,000 per day for its failure to comply if the utility did not file the required documentation by September 30, 2010. To date, I have yet to receive documentation that the utility's books and records have been set up using the NARUC's USoA.

Section 367.161(1), Florida Statutes (F.S.), authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, F.S., or any lawful rule or order of the Commission. Each day that such refusal or violation continues constitutes a separate offense. Your failure to provide the required documentation appears to be a willful violation of Order No. PSC-10-0403-FOF-WS and Rule 25-30.110, F.A.C.

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Mr. Jon B. Stump
Page 2
September 20, 2010

Again, staff recognizes that the utility is having a difficult time adjusting to regulation by the Florida Public Service Commission. Accordingly, staff will give the utility until **Wednesday, October 27, 2010**, to provide documentation proving that the utility's books and records have been set up in accordance with NARUC's USoA. **However, if the utility does not file the required documentation by October 27, 2010, staff will open a new docket and recommend to the Commission that the utility be required to show cause in writing why it should not be fined up to \$5,000 per day for its failure to comply.**

Enclosed, please find a copy of Order No. PSC-10-0403-FOF-WS, staff's letter dated June 28, 2010, staff's letter dated September 20, 2010, and Rule 25-30.110, F.A.C. Please do not hesitate to contact me if you have any questions. I can be reached at anwillia@psc.state.fl.us or (850) 413-6076. If you have technical questions, please contact Martha Golden at mgolden@psc.state.fl.us or (850) 413-7015.

Sincerely,



Anna R. Williams, Esq.
Staff Attorney

Encl.

Cc: Docket No. 090468-WS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for grandfather certificate to operate water and wastewater utility in St. Johns County by Orangedale Utilities, Inc. | DOCKET NO. 090468-WS
ORDER NO. PSC-10-0403-FOF-WS
ISSUED: June 21, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP

ORDER GRANTING GRANDFATHER CERTIFICATES TO ORANGEDALE UTILITIES INC. TO PROVIDE WATER AND WASTEWATER SERVICES IN ST. JOHNS COUNTY

BY THE COMMISSION:

Background

On December 2, 2008, the Board of County Commissioners of St. Johns County passed Ordinance No. 2008-57, declaring the privately-owned water and wastewater utilities in St. Johns County to be subject to the provisions of Chapter 367, Florida Statutes (F.S.). The Ordinance was filed with this Commission on January 16, 2009, making that the effective date of the transfer of jurisdiction. We acknowledged the Ordinance by order dated February 12, 2009.¹ Pursuant to Section 367.171(2)(b), F.S., each utility engaged in the operation or construction of a system shall be entitled to receive a grandfather certificate for the area served by such utility on the day the chapter becomes applicable to the utility.

On October 2, 2009, Orangedale Utilities, Inc. (Orangedale or utility) filed an application for a certificate under grandfather rights to provide water and wastewater services in St. Johns County pursuant to Section 367.171, F.S. The application was completed on March 10, 2010.

Orangedale is a small utility providing water and wastewater service to 92 lots in St. Johns County since 1958. The County's policy has been that it does not regulate utilities with fewer than 100 connections. Therefore, the County did not regulate Orangedale. According to Section 367.022(6), F.S., systems with the capacity or proposed capacity to serve 100 or fewer persons is exempt from Commission regulation, which by Rule 25-30.055(1), Florida Administrative Code (F.A.C.), is defined as capacity to pump no more than 10,000 gallons per day (gpd). Since Orangedale has the capacity to pump 57,000 gpd, the utility is subject to regulation by this Commission.

¹ Order No. PSC-09-0092-FOF-WS, issued February 12, 2009, in Docket No. 090029-WS, In re: Ordinance by Board of County Commissioners of St. Johns County relating to regulation of water and wastewater utilities within the unincorporated areas of St. Johns County.

Orangedale is located in the St. Johns River Water Management District. This Order addresses Orangedale's application for grandfather water and wastewater certificates, rates, and charges. We have jurisdiction pursuant to Sections 367.171 and 367.091, F.S.

Analysis and Ruling

Application for Grandfather Certificates

The Board of County Commissioners of St. Johns County transferred jurisdiction of privately-owned water and wastewater utilities in the County to this Commission effective January 16, 2009. On October 2, 2009, an application was filed on behalf of Orangedale to provide water and wastewater service under the grandfather rights of Section 367.171(2)(b), F.S. The application, as completed on March 10, 2010, is in compliance with the governing statute and other pertinent statutes and administrative rules concerning an application for grandfather certificates. Noticing is not required for grandfather applications.

The application contains a 99-year lease between Jon B. and Jill W. Stump d/b/a Vinyard Mobile Home Park and Orangedale as proof of continued long-term use of the land on which the water and wastewater facilities are located. In addition, the application includes an accurate territory description and adequate service territory and system maps. A description of the territory is appended as Attachment A.

The utility has been in existence since 1958. The water plant treats raw groundwater from the utility's single well, rated at 75 gallons per minute, utilizing a combination of aeration and hypochlorination. The utility has a ground storage tank, with a capacity of 15,000 gallons, and a hydropneumatic tank which tie into the utility's distribution system. The utility's water facilities are currently in compliance with the Department of Environmental Protection (DEP) with regard to environmental regulation.

The wastewater facility is a 15,000 gpd extended aeration treatment plant equipped with an aeration basin, clarifier, digester, and chlorine contact chamber. The residuals are transported to a separate facility, the Anastasia Island Wastewater Treatment Plant. The utility's wastewater facilities are currently in compliance with DEP with regard to environmental regulation.

Our staff has advised the utility president regarding filing an annual report and paying regulatory assessment fees (RAFs) for the period of jurisdiction from January 16, 2009, through December 31, 2009. The RAFs have been paid and the annual report has been filed on a timely basis. Our staff has informed the utility of the availability of a pass-through application for RAFs. In addition, our staff explained to the utility president the need to maintain the utility accounts according to the National Association of Regulatory Commissioners' Uniform System of Accounts as required by Rule 25-30.115, F.A.C.

Based on the above information, Orangedale's application for grandfather certificates is hereby acknowledged, and the utility shall be issued Certificate Nos. 651-W and 557-S, effective January 16, 2009, to serve the territory described in Attachment A. This order shall serve as Orangedale's water and wastewater certificates and shall be retained by the utility. The utility

shall provide documentation by August 31, 2010, demonstrating that its books and records have been set up using the National Association of Regulatory Commissioners' Uniform System of Accounts.

Rates and Charges

The utility was in the process of installing water meters when we received jurisdiction in St. Johns County. At that time, the utility had notified customers of its intent to change its rates from flat rates to metered rates, but had not started regular meter readings or begun charging a base facility charge (BFC) and gallonage rates. Our staff informed Orangedale that it could not change the rates charged at the time we received jurisdiction in St. Johns County.

According to the application, the rates and charges shown on Attachment B were being charged at the time jurisdiction was transferred to this Commission. This includes the \$450 charged for meter installation, which was being collected before January 16, 2009.

We find that the rates and charges that were in effect when St. Johns County transferred jurisdiction to this Commission, as shown on Attachment B, shall be approved effective January 16, 2009, pursuant to grandfather rights in Section 367.171, F.S. Orangedale, therefore, shall charge the approved rates and charges until they are authorized to be changed by this Commission in a subsequent proceeding.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Orangedale Utilities Inc.'s application for grandfather certificates to provide water and wastewater services in St. Johns County is hereby acknowledged. It is further

ORDERED that the utility shall be issued Certificate Nos. 651-W and 557-S, effective January 16, 2009, to serve the territory described in Attachment A. This order shall serve as Orangedale Utilities Inc.'s water and wastewater certificates and shall be retained by the utility. It is further

ORDERED that the utility shall provide documentation by August 31, 2010, demonstrating that its books and records have been set up using the National Association of Regulatory Commissioners' Uniform System of Accounts. It is further

ORDERED that the rates and charges that were in effect when St. Johns County transferred jurisdiction to this Commission, as shown on Attachment B, shall be approved effective January 16, 2009. It is further

ORDERED that Orangedale Utilities Inc. shall charge the approved rates and charges until they are authorized to be changed by this Commission in a subsequent proceeding. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 21st day of June, 2010.

/s/ Ann Cole
ANN COLE
Commission Clerk

This is an electronic transmission. A copy of the original signature is available from the Commission's website, www.floridapsc.com, or by faxing a request to the Office of Commission Clerk at 1-850-413-7118.

(S E A L)

ARW

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

ORANGEDALE UTILITIES, INC.
St. Johns County
Water and Wastewater Service Area

Township 6 South, Range 27 East

Sections 5

A portion of the Southeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 5, Township 6 South, Range 27 East, St. Johns County, Florida, and being more particularly described as follows:

Begin at the Southeast corner of said Section 5; Thence on the East line of said Section 5, run North $00^{\circ}47'30''$ West a distance of 1326.00 feet; Thence South $88^{\circ}23'05''$ West a distance of 1020.44 feet; Thence South $31^{\circ}00'53''$ West a distance of 626.47 feet to the Northeasterly line of State Road No. 13; Thence on last said line South $46^{\circ}00'00''$ East a distance of 1108.00 feet to the South line of said Section 5; Thence on last said line North $89^{\circ}02'15''$ East a distance of 564.20 feet to the point of beginning, being in area 31.80 acres, more or less.

FLORIDA PUBLIC SERVICE COMMISSION
authorizes
Orangedale Utilities, Inc.
pursuant to
Certificate Number 651-W

to provide water service in St. Johns County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-10-0403-FOF-WS	06/21/10	090468-WS	Grandfather Certificate

FLORIDA PUBLIC SERVICE COMMISSION
authorizes
Orangedale Utilities, Inc.
pursuant to
Certificate Number 557-S

to provide wastewater service in St. Johns County in accordance with the provisions of Chapter 367, Florida Statutes, and the Rules, Regulations, and Orders of this Commission in the territory described by the Orders of this Commission. This authorization shall remain in force and effect until superseded, suspended, cancelled or revoked by Order of this Commission.

<u>Order Number</u>	<u>Date Issued</u>	<u>Docket Number</u>	<u>Filing Type</u>
PSC-10-0403-FOF-WS	06/21/10	090468-WS	Grandfather Certificate

ORANGEDALE UTILITIES, INC.

Flat Monthly Combined Water and Wastewater Rates

Number of People in Unit	Rate
One	\$45.00
Families	\$65.00
Vacation Rate	\$25.00

Service Availability Charge

Meter Installation	\$450.00
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COMMISSIONERS:
NANCY ARGENZIANO, CHAIRMAN
LISA POLAK EDGAR
NATHAN A. SKOP

STATE OF FLORIDA



MARSHALL WILLIS, DIRECTOR
DIVISION OF ECONOMIC REGULATION
(850) 413-6900

Public Service Commission

June 28, 2010

RECEIVED PSC
10 JUN 28 PM 4:00
COMMISSION
CLERK

Mr. Jon B. Stump
Orangedale Utilities, Inc.
528 Majestic Oak Parkway
St. Augustine, FL 32092

Re: Docket No. 090468-WS, Application for grandfather certificate to operate water and wastewater utilities in St. Johns County by Orangedale Utilities, Inc.

Dear Mr. Stump:

Enclosed please find Order No. PSC-10-0403-FOF-WS, which serves as Certificate Nos. 651-W and 557-S which have been issued for Orangedale Utilities, Inc. This order should be retained in the utility's office. Please note that the third Ordering Paragraph of the Order requires you to provide documentation by August 31, 2010, that the utility's books and records have been set up using the National Association of Regulatory Commissioners' Uniform System of Accounts. The utility's tariffs will be sent under separate cover.

Enclosed with this letter are the following documents:

1. Chapter 367, Florida Statutes, (F.S.), which details the Commission's jurisdiction over private water and wastewater utilities;
2. Chapter 25-9, Florida Administrative Code (F.A.C.), which details the rules governing the filing of utility tariffs;
3. Chapter 25-22, Florida Administrative Code (F.A.C.), which details rules governing general Commission practices such as the procedures for conducting meetings, rule making, hearings and the issuance of orders;
4. Chapter 25-30, Florida Administrative Code (F.A.C.), which details the specific rules promulgated to carry out the jurisdiction of the Commission over private water and wastewater utilities;
5. Uniform System of Accounts for Class C Water and/or Wastewater Utilities, which is the system of record keeping required pursuant to Rule 25-30.110, Florida Administrative Code.

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PSC-C

Be advised that Section 367.161, F.S., provides that violation of any Commission rule, statute, or order could result in penalties of up to \$5,000 per day. Therefore, it is important that you review this material and make yourself aware of your responsibilities as a regulated utility. These documents should be placed in a binder and kept in a safe place for easy referral by utility staff and owners. Also, Rule 25-30.135, F.A.C., requires all utilities to maintain for customer inspection in the utility office a current copy of Chapters 25-9, 25-22 and 25-30, Florida Administrative Code, and Chapter 367, Florida Statutes, as well as a current copy of the utility's tariffs and developer agreements.

From time to time, the rules and statutes will change. You need to be aware of these changes in order to stay current on your responsibilities and to maintain a current copy of the rules and statutes in the utility office. When the Commission proposes to revise any of its existing rules affecting the water and wastewater industry (Chapters 25-9, 25-22 and 25-30, F.A.C.), a notice of proposed rulemaking will be sent to you. After rulemaking is completed, a final Commission order adopting the new or revised rule will also be sent to you. This new or revised rule should be incorporated into your copy of the Commission rules. The Commission does not furnish utilities with changes enacted by the Florida Legislature relating to Chapter 367, F.S. However, changes to the Florida Statutes are published annually and copies may be obtained by visiting your local public library. You may also obtain the latest copy of the rules and statutes on-line at the Commission web site, www.psc.state.fl.us.

In addition to the above, periodically the Commission will be sending you copies of Commission orders which relate to the water and wastewater industry, in general, and notices of hearings in dockets of related utilities. These are sent for your information. Whenever you have any questions concerning material you receive from the Commission, you may contact the Division of Economic Regulation - Rate Filings Bureau and/or the Certification, Economics and Tariffs Bureau at (850) 413-6900.

We would like to direct you to certain areas within the rules and statute which will affect your day to day operations as a utility:

1. As you should be aware, you were granted certain specific territory in the certificate process you just completed. It is a violation of Section 367.045, F.S., for a utility to serve outside this territory. If, in the future, you want to serve additional territory, you must file an application for amendment of your certificated territory. See Rule 25-30.036, F.A.C., for the current filing requirements for an application for amendment.
2. The utility's approved rates, charges, and service availability policy are contained in its approved tariff. Please note that your approved tariff will be sent under a separate cover letter. When you receive this document, it should also be placed in a binder and retained in the utility office for referral and review by utility personnel and customers. A utility may not charge customers any rates or charges not included in its approved tariff. If you find you need to revise any rates or charges, you should refer to Part V of Chapter 25-30, F.A.C., which contains the necessary steps for rate adjustment changes. Part VI of Chapter 25-30, F.A.C., contains the steps necessary to change service availability charges or policies. In addition, you may contact the Division of Economic Regulation for guidance related to tariffs.

3. To help keep up with inflation and to avoid the costly expense of filing a full rate case, the Commission establishes a price index for major categories of operating costs on or before March 31, each year and utilities are allowed to increase rates using this price index mechanism. In addition, utilities are allowed to increase rates as a result of increases in certain expenses, such as purchased power and property tax using a pass through mechanism. Rules 25-30.420 and 25-30.425, F.A.C., contain the criterion for water and wastewater utilities to follow in order to increase rates based upon the application of the price index or pass through rate adjustments. The Commission strongly encourages all regulated water and wastewater utilities under its jurisdiction to utilize these options which are available to them.
4. We would encourage you to review carefully Part IV of Chapter 25-30, F.A.C. This part of the water and wastewater rules describes the utility's responsibilities to its customers. They include customer deposits, termination of service, customer billing, refusal or discontinuance of service, backbilling, complaints, and refunds.
5. Each utility shall maintain its records in accordance with the National Association of Regulatory Utility Commissioners' (NARUC) uniform system of accounts (see Rule 25-30.110, F.A.C.). A copy of this system of accounts is enclosed for Class C utilities. However, should your utility be Class A or B or should you need additional copies please contact NARUC, Post Office Box 684, Washington, D.C. 20044. For further information or telephone orders, please call (202) 898-2200 in Washington, D.C.
6. Regulated water and wastewater utilities are also required to file two related reports with the Commission on an annual basis:
 - A. **Annual Report.** Each utility is required to submit an annual report which contains certain financial and operational data relating to the utility. (See Rule 25-30.110, F.A.C.)
 - B. **Regulatory Assessment Fee form.** Each utility is required to remit an annual regulatory assessment fee (RAF). RAFs are currently 4-1/2% of gross operating revenue and are designed to cover the Commission's costs of regulating water and wastewater utilities. (See Rule 25-30.120, F.A.C.)

The annual report and RAF forms, as well as the payment for RAFs, are due to the Commission by March 31 of each year for the previous calendar year. For your convenience, the Commission will send the two report forms by January 15 of each year. However, failure to receive the forms does not abrogate the utility of its responsibility to timely file an annual report and remit the appropriate amount of RAFs.

There is one technical division within the Commission that is primarily responsible for matters pertaining to water and wastewater utilities:

The Division of Economic Regulation - Bureau of Certification, Economics, Tariffs Finance and Tax, as you already know, is responsible for the certification of water and wastewater utilities, as well as any amendments or transfers thereof. Any questions relating to your certificated territory or the possible sale of the utility should be directed to Patti Daniel, Public Utilities Supervisor, Bureau of Certification, Economics & Tariffs.

The Division of Economic Regulation - Bureau of Rate Filings and Surveillance is responsible for accounting, engineering and rates concerns for all filings involving file and suspend rate cases (MFR's), staff assisted rate cases (SARC's), limited proceedings, allowance for funds prudently invested, service availability, Annual Report review, RAF compliance, and processing of index and pass through applications. Any questions concerning the filing of a rate case, a staff assisted rate case, limited proceeding, tariff, engineering related matters, Annual Reports, RAF's, or index or pass through applications should be directed to Andrew Maurey, Bureau Chief, Bureau of Rate Filings and Surveillance.

We welcome and encourage regulated water and wastewater utilities under the Commission's jurisdiction to contact our staff and maintain working liaisons with us. This accomplishes better relations between the Commission staff and utilities and provides for faster and more efficient completion of regulatory requirements.

With the goal of accessibility and efficiency, the Commission now has application packages as well as model tariffs available on-line at the Commission web site, www.psc.state.fl.us. The packages available include: amendment, original utility in existence, grandfather, true original, transfer, transfer to a governmental authority, and transfer of majority organizational control. Just click on the Water and Wastewater icon shown on the home page, then click on the Water and Wastewater Application Packages line, then the various packages will appear on a list of available documents.

If we can be of any assistance to you and your utility, please do not hesitate to contact Ms. Stephanie Clapp at (850)413-6997.

Sincerely,



Marshall Willis
Director

TD/sc:kb
Enclosures

cc: Division of Economic Regulation
Office of the General Counsel
Office of Commission Clerk
Division of Administrative Services

COMMISSIONERS:
NANCY ARGENZIANO, CHAIRMAN
LISA POLAK EDGAR
NATHAN A. SKOP
ART GRAHAM
RONALD A. BRISÉ

STATE OF FLORIDA



GENERAL COUNSEL
S. CURTIS KISER
(850) 413-6199

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10 SEP 20 PM 3:02

COMMISSION
CLERK

Public Service Commission

September 20, 2010

Mr. Jon B. Stump
528 Majestic Oak Parkway
St. Augustine, FL 32092

Re: Docket No. 090468-WS - Application for grandfather certificate to operate water and wastewater utility in St. Johns County by Orangedale Utilities, Inc.

Dear Mr. Stump:

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Section 367.161(1), Florida Statutes (F.S.), authorizes the Commission to assess a penalty of not more than \$5,000 for each offense, if a utility is found to have knowingly refused to comply with, or to have willfully violated, any provision of Chapter 367, F.S., or any lawful rule or order of the Commission. Each day that such refusal or violation continues constitutes a separate offense. Your failure to provide documentation by August 31, 2010, proving that the utility's books and records have been set up in accordance with NARUC's USoA appears to be a willful violation of Order No. PSC-10-0403-FOF-WS and Rule 25-30.110, F.A.C.

Staff recognizes that the utility is having a difficult time adjusting to regulation by the Public Service Commission. Accordingly, staff has decided to extend the August 31, 2010 deadline to September 30, 2010. However, if the utility does not file the required documentation by September 30, 2010, staff will recommend to the Commission that the utility be required to show cause in writing why it should not be fined up to \$5,000 per day for its failure to comply.

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FPSC-COMMISSIONER

Mr. Jon B. Stump
Page 2
September 20, 2010

Enclosed, please find a copy of Order No. PSC-10-0403-FOF-WS, staff's letter dated June 28, 2010, and Rule 25-30.110, F.A.C. Please do not hesitate to contact me if you have any questions. I can be reached at anwillia@psc.state.fl.us or (850) 413-6076. If you have technical questions, please contact Martha Golden at mgolden@psc.state.fl.us or (850) 413-7015.

Sincerely,

A handwritten signature in black ink, appearing to read 'A.R. Williams', with a stylized flourish at the end.

Anna R. Williams, Esq.
Staff Attorney

Encl.

Cc: Docket No. 090468-WS

25-30.110 Records and Reports; Annual Reports.

(1) RECORDS.

(a) Each utility shall preserve its records in accordance with the "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities" as issued by the National Association of Regulatory Utility Commissions, as revised May 1985.

1. Those utilities that choose to convert documents from their original media form shall retain the original source documents as required by paragraph 25-30.110(1)(a), F.A.C., for a minimum of three years, or for any lesser period of time specified for that type of record in the "Regulations to Govern the Preservation of Records of Electric, Gas and Water Utilities," after the date the document was created or received by the utility. This paragraph does not require the utility to create paper copies of documents where the utility would not otherwise do so in the ordinary course of its business. The Commission may waive the requirement that documents be retained in their original form upon a showing by a utility that it employs a storage and retrieval system that consistently produces clear, readable copies that are substantially equivalent to the originals, and clearly reproduces handwritten notations on documents.

2. The utility shall maintain written procedures governing the conversion of source documents to a storage and retrieval system, which procedures ensure the authenticity of documents and the completeness of records. Records maintained in the storage and retrieval system must be easy to search and easy to read.

(b) Unless otherwise authorized by the Commission, each utility shall maintain its records at the office or offices of the utility within this state and shall keep those records open for inspection during business hours by Commission staff.

(c) Any utility that keeps its records outside the state shall reimburse the Commission for the reasonable travel expense incurred by each Commission representative during any review of the out-of-state records of the utility or its affiliates. Reasonable travel expenses are those travel expenses that are equivalent to travel expenses paid by the Commission in the ordinary course of its business.

1. The utility shall remit reimbursement for out-of-state travel expenses within 30 days from the date the Commission mails the invoice.

2. The reimbursement requirement in paragraph (1)(c) shall be waived:

a. For any utility that makes its out-of-state records available at the utility's office located in Florida or at another mutually agreed upon location in Florida within 10 working days from the Commission's initial request. If 10 working days is not reasonable because of the complexity and nature of the issues involved or the volume and type of material requested, the Commission may establish a different time frame for the utility to bring records into the state. For individual data requests made during an audit, the response time frame established in Rule 25-30.145, F.A.C., shall control; or

b. For a utility whose records are located within 50 miles of the Florida state line.

(2) **IN GENERAL.** Each utility shall furnish to the Commission at such time and in such forms as the Commission may require, the results of any required tests and summaries of any required records. The utility shall also furnish the Commission with any information concerning the utility's facilities or operation that the Commission may request and require for determining rates or judging the practices of the utility. All such data, unless otherwise specified, shall be consistent with and reconcilable with the utility's annual report to the Commission.

(3) **ANNUAL REPORTS; FILING EXTENSIONS.** Each utility shall file with the Commission annual reports on forms prescribed by the Commission. The obligation to file an annual report for any year shall apply to any utility which is subject to this Commission's jurisdiction as of December 31 of that year, whether or not the utility has actually applied for or been issued a certificate.

(a) The Commission shall, by January 15 of each year, send one blank copy of the appropriate annual report form to each utility company. The failure of a utility to receive a report form shall not excuse the utility from its obligation to timely file the annual report. An original and two copies of the annual reports shall be filed with the Commission on or before March 31 for the preceding year ending December 31. Annual reports are considered filed on the day they are postmarked or received and logged in by the Commission's Division of Economic Regulation in Tallahassee.

(b) An annual report is considered on file if it is properly addressed, with sufficient postage, and postmarked no later than the due date. If an annual report is sent by registered mail, the date of the registration is the postmark date. The registration is evidence that the annual report was delivered. If an annual report is sent by certified mail and the receipt is postmarked by a postal employee, the date on the receipt is the postmark date. The postmarked certified mail receipt is evidence that the return was delivered.

(c) A utility may file a written request for an extension of time with the Division of Economic Regulation no later than March

31. One extension of 30 days will be automatically granted upon request. A request for a longer extension must be accompanied by a statement of good cause and shall specify the date by which the report will be filed.

(4) ANNUAL REPORTS; CONTENTS. The appropriate annual report form required from each utility shall be determined by using the same three classes of utilities used by the National Association of Regulatory Utility Commissioners for publishing its system of accounts: Class A (those having annual water or wastewater operating revenues of \$1,000,000 or more); Class B (those having annual water or wastewater revenues of \$200,000 or more but less than \$1,000,000); Class C (annual water or wastewater revenues of less than \$200,000). The class to which a utility belongs shall be determined by using the higher of the average of its annual water or wastewater operating revenues for each of the last three preceding years.

(a) Class A and B utilities shall file the annual report on Commission Form PSC/ECR 3-W (12/99), entitled "Water and/or Wastewater Utilities (Gross Revenues of \$200,000 and more)", which is incorporated by reference into this rule.

(b) Class C utilities shall file the annual report on Commission Form PSC/ECR 6-W (12/99), entitled "Water and/or Wastewater Utilities (Gross Revenues of less than \$200,000 each)", which is incorporated by reference into this rule.

(c) The foregoing forms can be obtained from the Commission's Division of Economic Regulation.

(5) CERTIFICATION OF ANNUAL REPORTS. As part of the annual report, each utility shall certify the following in writing by the utility's chief executive officer and chief financial officer:

(a) Whether the utility is in substantial compliance with the Uniform System of Accounts as prescribed by Rule 25-30.115, F.A.C.;

(b) Whether the utility is in substantial compliance with all applicable rules and orders of the Florida Public Service Commission;

(c) Whether there have been any written communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices that could have a material effect on the financial statements;

(d) Whether the financial statements and related schedules fairly present the financial condition and results of operations for the period presented and whether other information and statements presented as to the business affairs of the respondent are true, correct, and complete for the period which they represent.

(6) ANNUAL REPORTS, PENALTY FOR NONCOMPLIANCE. A penalty shall be assessed against any utility that fails to file an annual report or an extension in the following manner:

(a) Failure to file an annual report or an extension on or before March 31;

(b) Failure to file a complete annual report;

(c) Failure to file an original and two copies of the annual report.

Any utility that fails to comply with this rule shall be subject to the penalties imposed herein unless the utility demonstrates good cause for the noncompliance. The Commission may, in its discretion, impose penalties for noncompliance that are greater or lesser than provided herein; such as in cases involving a flagrant disregard for the requirements of this rule or repeated violations of this rule. No final determination of noncompliance or assessment of penalty shall be made by the Commission except after notice and an opportunity to be heard, as provided by applicable law.

(d) Any utility which fails to pay a penalty within 30 days after its assessment by the Commission shall be subject to interest applied to the penalty up to and including the date of payment of the penalty. Such interest shall be compounded monthly, based on the 30 day commercial paper rate for high grade, unsecured notes sold through dealers by major corporations in multiples of \$1,000 as regularly published in the Wall Street Journal.

(7) DELINQUENT REPORTS.

(a) Any utility that fails to file its annual report or extension on or before March 31, or within the time specified by any extension approved in writing by the Division of Economic Regulation, shall be subject to a penalty. The penalty shall be based on the number of calendar days elapsed from March 31, or from an approved extended filing date, until the date of filing. The date of filing shall be included in the days elapsed.

(b) The penalty for delinquent reports shall accrue based on the utility's classification established under subsection (4), in the following manner for each day the report is delinquent:

1. \$25 per day for Class A utilities;

2. \$13.50 per day for Class B utilities; and

3. \$3.00 per day for Class C utilities.

(8) INCOMPLETE REPORTS.

(a) The Commission's Division of Economic Regulation shall provide written notification to a utility if its report does not contain information required by subsection (4) of this rule. The utility shall file the missing information no later than 30 days after the date on the face of the notification. If the utility fails to file the information within that period, the report will be deemed delinquent and the utility shall be subject to a penalty as provided under paragraphs (7)(a) and (b), except that the penalty shall be based on the number of days elapsed from the date the information is due to the date it is actually filed. The date of filing shall be included in the elapsed days.

(b) A report is incomplete if any of the schedules required by the following forms of this rule are not completed:

1. Form PSC/ECR 3-W (Rev. 12/99) for Class A and B utilities;
2. Form PSC/ECR 6-W (Rev. 12/99) for Class C utilities.

(c) An incomplete report will remain incomplete until the missing information is filed with the Division of Economic Regulation on the appropriate Commission form.

(9) INCORRECT FILING. If a utility files an incorrect annual report it shall be considered delinquent and subject to a penalty on the same basis as a utility that fails to timely file an annual report. The classification determining the applicable penalty, as prescribed by paragraphs (7)(a) and (b), shall be determined by the latest annual revenue figures available for the utility. The failure of a utility to receive a report form for the correct class of utility shall not excuse the utility from its obligation to timely file the annual report for the correct class of utility.

(10) INSUFFICIENT COPIES. A utility that fails to file one original and two copies of its annual report shall be subject to a penalty of one dollar per page per missing copy. The Commission will provide the utility with written notice that insufficient copies were received. A penalty may be avoided if, within 20 days after the date of the notice, the utility files the missing copies or requests that the Commission copy its report for it and remits the appropriate fee for the copying.

(11) OTHER PENALTIES. The penalties that may be assessed against a utility for failure to file an annual report in compliance with the foregoing shall be separate and distinct from penalties that may be imposed for other violations of the requirements of the Commission.

Specific Authority 350.127(2), 367.121 FS. Law Implemented 367.121(1)(c), (g), (i), (k), 367.156(1), 367.161 FS. History—Amended 9-12-74, 1-18-83, 2-25-85, 10-27-85, Formerly 25-10.25, 25-10.025, Amended 11-10-86, 12-22-86, 3-11-91, 11-13-95, 5-1-96, 12-14-99