

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

NOTICE OF DEVELOPMENT OF RULEMAKING

TO

ALL WATER AND WASTEWATER UTILITIES

AND

ALL OTHER INTERESTED PERSONS

UNDOCKETED

IN RE: PROPOSED AMENDMENT OF RULE 25-30.0371, F.A.C.,
ACQUISITION ADJUSTMENTS

ISSUED: March 30, 2023

NOTICE is hereby given pursuant to Section 120.54, Florida Statutes, that the Florida Public Service Commission staff has initiated rulemaking to amend Rule 25-30.0371, Florida Administrative Code, to update and clarify the rule. A staff rule development workshop will be held at the following time and place:

April 13, 2023, at 9:30 a.m.
Betty Easley Conference Center, Room 148
4075 Esplanade Way
Tallahassee, FL 32399-0850

The draft rule and the agenda for the workshop are attached. One or more Commissioners may be in attendance and participate in the workshop. The person to be contacted regarding this rule development is Douglas Sunshine, Office of the General Counsel, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850) 413-6224, douglas.sunshine@psc.state.fl.us.

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate at this workshop should contact the Office of Commission Clerk no later than five days prior to the workshop at 2540 Shumard Oak Boulevard., Tallahassee, Florida 32399-0850 or 850-413-6770 (Florida Relay Service, 1-800-955-8770 Voice or 1-800-955-8771 TDD). Assisted Listening Devices are available upon request from the Office of Commission Clerk, Gerald L. Gunter Building, Room 152.

NOTICE OF DEVELOPMENT OF RULEMAKING
UNDOCKETED
PAGE 2

If a named storm or other disaster requires cancellation of the workshop, Commission staff will attempt to give timely notice to the public. Notice of cancellation will also be provided on the Commission's website (www.floridapsc.com) under the Hot Topics link found on the home page. Cancellation can also be confirmed by calling the Office of the General Counsel at (850) 413-6199.

By DIRECTION of the Florida Public Service Commission this 30th day of March, 2023.



ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

DDS

1 **25-30.0371 Acquisition Adjustments.**

2 (1) Definitions. ~~For the purpose of this rule, an acquisition adjustment is defined as the~~

3 (a) “Acquisition Adjustment” means the difference between the purchase price of utility
4 system assets to an acquiring utility and the net book value of the utility assets. A positive
5 acquisition adjustment exists when the purchase price is greater than the net book value. A
6 negative acquisition adjustment exists when the purchase price is less than the net book value.

7 (b) “Positive Acquisition Adjustment” means the purchase price is greater than the net
8 book value.

9 (c) “Negative Acquisition Adjustment” means the purchase price is less than the net book
10 value.

11 (d) “Non-Viable Utility” means a utility that is:

12 1. in violation of statutory or regulatory primary water quality standards that affect the
13 quality of service provided and is not reasonably expected to furnish and maintain safe and
14 adequate service and facilities in the future; or

15 2. in violation of any order of a state or federal agency, including the Commission,
16 concerning the quality of service and is not reasonably expected to furnish and maintain safe
17 and adequate service and facilities in the future; or;

18 3. not reasonably expected to furnish and maintain safe and adequate service and facilities
19 in the future; or

20 4. insolvent, i.e., unable to pay debts owed.

21 (2) Positive Acquisition Adjustments for a Non-Viable Utility. A positive acquisition
22 adjustment shall not be included in rate base absent proof of extraordinary circumstances. Any
23 entity that believes a full or partial positive acquisition adjustment will be allowed for a
24 non-viable system if it is demonstrated that customers will benefit if a full or partial positive
25 acquisition adjustment is allowed should be made has the burden to prove the existence of

1 ~~extraordinary circumstances.~~ In determining whether customers benefit, ~~extraordinary~~
2 ~~circumstances have been demonstrated,~~ the Commission will ~~shall~~ consider evidence provided
3 to the Commission such as anticipated improvements in quality of service, anticipated
4 improvements in compliance with regulatory mandates, anticipated rate reductions or rate
5 stability over a long-term period, anticipated cost efficiencies, and whether the purchase was
6 made as part of an arms-length transaction. Amortization of a positive acquisition adjustment
7 will ~~shall~~ be pursuant to subsection (6) paragraph (4)(a) below.

8 (3) Positive Acquisition Adjustments for a Viable Utility. A full or partial positive
9 acquisition adjustment will be allowed if it is demonstrated that the transaction incorporating
10 the full or partial positive acquisition adjustment is projected to provide a positive cumulative
11 present value of the revenue requirements (CPVRR) benefit over a five-year period. All data
12 and assumptions used in such CPVRR analysis, including the spreadsheet with formulas intact
13 used to calculate the CPVRR, must be provided in the application requesting a full or partial
14 positive acquisition adjustment. Form PSC XXXX (XX/23), entitled “Water and/or
15 Wastewater Utilities Cumulative Present Value of the Revenue Requirements for Acquisition
16 Adjustment Worksheet,” which is incorporated by reference in this rule and is available at
17 <hyperlink>, is an example CVPRR that may be completed by the applicant and included in
18 the application required by subsection (4) of this rule. This form may also be obtained from
19 the Commission’s website, www.floridapsc.com. ~~Negative Acquisition Adjustments. If the~~
20 ~~purchase price is greater than 80 percent of net book value, a negative acquisition adjustment~~
21 ~~will not be included in rate base. When the purchase price is equal to or less than 80 percent of~~
22 ~~net book value, a negative acquisition adjustment shall be included in rate base and will be~~
23 ~~equal to 80 percent of net book value less the purchase price. Amortization of a negative~~
24 ~~acquisition adjustment shall be pursuant to subparagraph (4)(b)1. or (4)(b)2. below.~~

25 (4) Application. Application for a full or partial positive acquisition adjustment can be

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

1 made at the time of transfer of ownership or at any time within three years of the date of the
2 order approving of the transfer of ownership and assets.

3 (5) Negative Acquisition Adjustment. A negative acquisition adjustment will not be
4 included in rate base.

5 (6) (4) Amortization Period. (a)-In setting the amortization period for a Commission
6 approved positive acquisition adjustment pursuant to subsections (2) or (3) above, the
7 Commission will shall consider evidence such as the composite remaining life of the assets
8 purchased and the condition of the assets purchased. Amortization of the acquisition
9 adjustment will shall begin on the date of issuance of the order approving the acquisition
10 adjustment transfer of assets.

11 ~~(b) The appropriate period over which to amortize a Commission approved negative~~
12 ~~acquisition adjustment pursuant to subsection (3) above, shall be determined as follows:~~

13 ~~1. If the purchase price is greater than 50 percent of net book value, the negative~~
14 ~~acquisition adjustment shall be amortized over a 7-year period from the date of issuance of the~~
15 ~~order approving the transfer of assets. In this case, the negative acquisition adjustment shall~~
16 ~~not be recorded on the books for ratemaking purposes or used for any earnings review unless~~
17 ~~the purchaser files for a rate increase pursuant to Section 367.081(2), 367.0814, 367.0817 or~~
18 ~~367.0822, F.S., that will be effective during the amortization period.~~

19 ~~2. If the purchase price is 50 percent of net book value or less, the negative acquisition~~
20 ~~adjustment shall be amortized from the date of issuance of the order approving the transfer of~~
21 ~~assets as follows:~~

22 ~~a. 50 percent of the negative acquisition adjustment shall be amortized over a 7-year~~
23 ~~period; and~~

24 ~~b. 50 percent of the negative acquisition adjustment shall be amortized over the remaining~~
25 ~~life of the assets.~~

1 ~~(7) (5)~~-Subsequent Modification. Any full or partial positive acquisition adjustment, once
2 made by the Commission pursuant to subsections (2) or (3) above, may be subsequently
3 modified if the proposed customer benefits ~~extraordinary circumstances~~ do not materialize or
4 subsequently are eliminated or changed. Any subsequent modification by the Commission
5 will be within five (5) years of the date of issuance of the order approving the acquisition
6 adjustment. ~~transfer of assets.~~

7 *Rulemaking Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 367.071(5),*
8 *367.081(2)(a), 367.121(1)(a), (b) FS. History—New 8-4-02, Amended 11-22-10, _____.*

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NOTICE OF DEVELOPMENT OF RULEMAKING
 UNDOCKETED
 PAGE 7

WATER AND/OR WASTEWATER UTILITIES CUMULATIVE PRESENT VALUE OF THE REVENUE
 REQUIREMENTS FOR ACQUISITION ADJUSTMENT WORKSHEET

	Nominal		5 Year				
	Total	CPVRR	Year 1	Year 2	Year 3	Year 4	Year 5
Discount Factor (Overall cost of debt and equity)	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
Base Rates: Incremental Revenue Requirements¹	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
Operations and Maintenance ²	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
Property Tax and Insurance	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
Depreciation and Amortization ³	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
Interest Expense ⁴	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
Return on Equity ⁵	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
Income Tax ⁶	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
System Impact ⁷	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
Total Incremental Base Rate Revenue Requirements	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
Base Rate Revenue from Customers ⁸	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX
Base Rate (Savings)/Cost⁹	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX

1 Incremental Revenue Requirement represents the difference between the Revenue Requirement with and without the Transaction.

2 Represents estimated incremental Operations and Maintenance cost for operating acquired system.

3 Incremental Depreciation and Amortization associated with the acquired assets, incremental acquired system capital expenditures and the positive acquisition adjustment.

4 Interest expense assumes X% cost of debt and X% debt to investor capital ratio.

5 Return on equity assumes X% cost of equity and X% equity to investor capital ratio.

6 Income tax assumes blended state and federal tax rate of X%.

7 Incremental fixed costs and capital needed to serve acquired system.

8 Base rate revenue from acquired customers at acquirer's forecasted rates.

9 Incremental revenue requirements netted against incremental revenue.

WORKSHOP AGENDA

1. Staff Welcome
2. Stakeholder comments on draft Rule 25-30.0371, F.A.C., Acquisition Adjustments
3. Discussion of next steps
4. Adjournment