

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: INITIATION OF RULEMAKING TO AMEND RULE 25-30.0371, FLORIDA
ADMINISTRATION CODE, ACQUISITION ADJUSTMENTS

TO

ALL OTHER INTERESTED PERSONS

UNDOCKETED

ISSUED:

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, pertaining to water and wastewater acquisition adjustments.

The attached Notice of Development of Rulemaking appeared in the April 23, 2010 edition of the Florida Administrative Weekly. A staff rule development workshop will be held at the following time and place:

May 20, 2010 at 9:30 a.m.
Florida Public Service Commission
Betty Easley Conference Center
Room 148, 4075 Esplanade Way
Tallahassee, Florida

One or more Commissioners may be in attendance and participate at the workshop. A copy of the draft rule and the agenda for the workshop is attached. The person to be contacted regarding the rule development is JoAnn Chase, Office of Economic Regulation, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6082, jchase@psc.state.fl.us.

Any person requiring some accommodation at this workshop because of a physical impairment should call the Office of Commission Clerk at (850) 413-6770, at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at 1-800-955-8771 (TDD).

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By DIRECTION of the Florida Public Service Commission this ____ day of _____,
_____.

ANN COLE
Commission Clerk

(SEAL)
CM

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Notice of Development of Rulemaking

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE

25-30.0371: Acquisition Adjustments

PURPOSE AND EFFECT: The draft amendments clarify circumstances under which positive acquisition adjustments shall be included in rate base. With regard to negative acquisition adjustments, the draft revisions are aimed at avoiding unintended consequences of negative acquisition adjustments in certain circumstances where inequities would result to the ratepayers. Undocketed.

SUBJECT AREA TO BE ADDRESSED: Water and wastewater acquisition adjustments.

SPECIFIC AUTHORITY: 350.127(2), 367.121(1)(f) FS

LAW IMPLEMENTED: 367.081(2)(a), 367.121(1)(a), (b) FS

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: May 20, 2010 at 9:30 a.m.

PLACE: Betty Easley Conference Center Room 148, 4075 Esplanade Way, Tallahassee, FL
Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850) 413-6770, (850) 413-6770. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE

DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:

Division of Economic Regulation, JoAnn Chase, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850 (850) 413-6978, jchase@psc.state.fl.us. The draft rule proposal will be available on the agency web site, www.floridapsc.com, after April 30, 2010.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

1 **25-30.0371 Acquisition Adjustments.**

2 (1) Definition. For the purpose of this rule, an acquisition adjustment is defined as the
3 difference between the purchase price of utility system assets to an acquiring utility and the
4 net book value of the utility assets. A positive acquisition adjustment exists when the purchase
5 price is greater than the net book value. A negative acquisition adjustment exists when the
6 purchase price is less than the net book value.

7 (2) Positive Acquisition Adjustments. A positive acquisition adjustment shall not be
8 included in rate base absent evidence supporting the adjustment, including the anticipated
9 improvements in quality of service, anticipated improvements in compliance with regulatory
10 mandates, anticipated rate reductions or rate stability over a long-term period, anticipated cost
11 efficiencies, and other relevant factors. If a positive acquisition adjustment is approved, the
12 Commission shall consider evidence such as the composite remaining life of the assets
13 purchased, and the condition of the assets purchased in determining the appropriate
14 amortization period. Amortization of the acquisition adjustment shall begin on the date of
15 issuance of the order approving the transfer of assets. ~~proof of extraordinary circumstances.~~
16 ~~Any entity that believes a full or partial positive acquisition adjustment should be made has~~
17 ~~the burden to prove the existence of extraordinary circumstances. In determining whether~~
18 ~~extraordinary circumstances have been demonstrated, the Commission shall consider evidence~~
19 ~~provided to the Commission such as anticipated improvements in quality of service,~~
20 ~~anticipated improvements in compliance with regulatory mandates, anticipated rate reductions~~
21 ~~or rate stability over a long-term period, and anticipated cost efficiencies.~~

22 (3) Negative Acquisition Adjustments. If the purchase price is greater than 80 percent
23 of net book value, a negative acquisition adjustment will not be included in rate base. When
24 the purchase price is less than 80 percent of net book value, a ~~A~~ negative acquisition

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

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1 adjustment shall ~~not~~ be included in rate base and will be equal to 80 percent of net book value
2 less the purchase price. Amortization of the negative acquisition adjustment shall be pursuant
3 to subsection (4)(a) or 4(b) below, unless there is proof of extraordinary circumstances or
4 where the purchase price is less than 80 percent of net book value. If the purchase price is less
5 than 80 percent of net book value then the inclusion of a negative acquisition adjustment shall
6 be calculated pursuant to paragraph (b) below.

7 (a) ~~Contested. Any entity that believes a full or partial negative acquisition adjustment~~
8 ~~should be made has the burden to prove the existence of extraordinary circumstances. Under~~
9 ~~no circumstance, however, shall the purchaser be required to record on its books more than 70~~
10 ~~percent of a negative acquisition adjustment. In determining whether extraordinary~~
11 ~~circumstances have been demonstrated, the Commission shall consider evidence provided to~~
12 ~~the Commission such as the anticipated retirement of the acquired assets and the condition of~~
13 ~~the assets acquired.~~

14 (b) ~~Uncontested. If the purchase price is less than 80 percent of net book value, then~~
15 ~~the amount of the difference in excess of 20 percent of net book value shall be recognized for~~
16 ~~ratemaking purposes as a negative acquisition adjustment. The negative acquisition adjustment~~
17 ~~shall not be recorded on the books for ratemaking purposes or used for any earnings review~~
18 ~~unless the purchaser files for a rate increase pursuant to Section 367.081(2), 367.0814,~~
19 ~~367.0817 or 367.0822, F.S., that will be effective during the amortization period. The negative~~
20 ~~acquisition adjustment shall be amortized over a 5-year period from the date of issuance of the~~
21 ~~order approving the transfer of assets.~~

22 (4) Amortization of Negative Acquisition Adjustment. Amortization Period. The
23 appropriate period over which to amortize a negative acquisition adjustment shall be
24 determined as follows:

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1 (a) If the purchase price is greater than 50 percent of net book value, the negative
2 acquisition adjustment shall be amortized over a 7-year period from the date of issuance of the
3 order approving the transfer of assets. In this case, the negative acquisition adjustment shall
4 not be recorded on the books for ratemaking purposes or used for any earnings review unless
5 the purchaser files for a rate increase pursuant to Section 367.081(2), 367.0814, 367.0817 or
6 367.0822, F.S., that will be effective during the amortization period.

7 (b) If the purchase price is 50 percent of net book value or less, the negative
8 acquisition adjustment shall be amortized from the date of issuance of the order approving the
9 transfer of assets as follows: (i) 50 percent of the negative acquisition adjustment shall be
10 amortized over a 7-year period; and (ii) 50 percent of the negative acquisition adjustment shall
11 be amortized over the remaining life of the assets.

12 ~~In setting the amortization period for a Commission approved acquisition adjustment pursuant~~
13 ~~to (2) or (3)(a) above, the Commission shall consider evidence provided to the Commission~~
14 ~~such as the composite remaining life of the assets purchased and the condition of the assets~~
15 ~~purchased. Amortization of the acquisition adjustment shall begin on the date of issuance of~~
16 ~~the order approving the transfer of assets.~~

17 (5) Subsequent Modification. Any positive full or partial acquisition adjustment, once
18 ~~made by the Commission pursuant to (2) or (3)(a) above,~~ may be subsequently modified if the
19 conditions upon which the decision to approve the position adjustment extraordinary
20 circumstances do not materialize or subsequently are eliminated or changed within five years
21 of the date of issuance of the order approving the transfer of assets.

22 Specific Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 367.071(5),
23 367.081(2)(a), 367.121(1)(a), (b) FS. History—New 8-4-02.

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ACQUISITION ADJUSTMENT RULE
STAFF WORKSHOP
AGENDA

May 20, 2010 at 9:30 a.m.
Betty Easley Conference Center
Room 148, 4075 Esplanade Way
Tallahassee, Florida

1. Staff overview of draft rule
2. Comments and alternative suggestions from interested persons
3. Discussion of suggested changes and timeframes for next steps
4. Adjournment