

## MEMORANDUM OF UNDERSTANDING

FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION

AND

FLORIDA PUBLIC SERVICE COMMISSION

The Florida Department of Environmental Regulation (DER) and the Florida Public Service Commission (PSC) recognize that water conservation and reuse of reclaimed water are key elements of Florida's long-term water management strategy. It is our joint goal and high priority to ensure that Florida water and wastewater utilities provide safe and efficient treatment and use of water and wastewater. This memorandum of understanding (MOU) formally establishes the policies and procedures to be followed by the DER and PSC to promote and encourage water conservation and reuse, and safe and efficient water supply and wastewater management services.

### BACKGROUND

#### Water Supply

The Federal Safe Drinking Water Act requires certain monitoring, testing, treatment, and reporting to ensure the quality of potable waters. The Florida Safe Drinking Water Act, contained in Chapter 403, Florida Statute (F.S.), outlines the basic requirements for Florida's water supply program. Chapters 17-550, 17-551, 17-555, and 17-560, Florida Administrative Code (F.A.C.), contain specific requirements governing water supply in Florida. The PSC's responsibilities for regulation of private water supply utilities are outlined in Chapter 367, F.S.

#### Wastewater Management

The Federal Clean Water Act requires effective treatment and management of wastewater in order to protect the nation's ground water and surface water resources. Florida's wastewater management and environmental control programs are contained in Chapter 403, F.S. Specific regulations governing domestic wastewater management are contained in Chapters 17-600, 17-601, 17-602, 17-604, 17-610, 17-611, 17-640, and 17-650, F.A.C. The PSC's responsibilities for regulation of private wastewater utilities are outlined in Chapter 367, F.S.

## Reuse of Reclaimed Water

The encouragement and promotion of water conservation and reuse of reclaimed water are established as state objectives in Section 403.064(1), F.S.

The DER has developed and implemented a comprehensive reuse program designed to meet those objectives. This reuse program includes:

1. Comprehensive rules governing the reuse of reclaimed water (Chapter 17-610, F.A.C);
2. A mandatory reuse program;
3. An Antidegradation Policy;
4. The Indian River Lagoon System and Basin Act; and
5. Requirements for evaluation of reuse feasibility.

Section 403.064, F.S., requires that after January 1, 1992, all applicants for permits to construct or operate a domestic wastewater treatment facility in a critical water supply problem area evaluate the cost and benefits of reusing reclaimed water as part of their application for the permit.

The Antidegradation Policy is contained in Chapter 17-4, F.A.C., "Permits," and Chapter 17-302, F.A.C., "Surface Water Quality Standards." These rules require an applicant for a new or expanded discharge to surface waters to demonstrate that the discharge is clearly in the public interest. As part of this public interest test, the applicant must evaluate the feasibility of reuse of reclaimed water. If reuse is economically and technologically reasonable, it will be preferred over the surface water discharge.

The Indian River Lagoon System and Basin Act, which is contained in Chapter 90-262, Laws of Florida, provides increased protection to the Indian River Lagoon System. Section 3 of the Act requires the owner of an existing sewage treatment facility within the Indian River Lagoon Basin to investigate the feasibility of using reclaimed water for beneficial purposes. These reuse feasibility studies were to be completed before July 1, 1992.

## OBJECTIVES

The common objectives, as they relate to domestic water supply and wastewater management facilities subject to regulation by the DER and the PSC, are as follows:

1. To monitor water supply systems to ensure that safe and reliable water is produced and delivered in accordance with applicable rules and drinking water standards;
2. To monitor domestic wastewater systems to ensure the safe and efficient collection, treatment, and reuse or disposal of wastewater and residuals;
3. To encourage and promote water conservation and reuse of reclaimed water;
4. To foster conservation and to reduce the withdrawal of ground and surface water through employment of conservation-promoting rate structures, reuse of reclaimed water, and consumer education programs.

## PSC RESPONSIBILITIES

The following presents the general description of the roles and responsibilities of the PSC related to water supply, water conservation, wastewater management, and reuse of reclaimed water. The PSC's jurisdiction is limited to economic regulation of investor-owned utilities and is effective in only some of the counties in Florida. The PSC will offer assistance to the extent provided by law and agency priority and workload. The PSC agrees to adopt and implement policies and procedures necessary to administer these duties.

### Water Supply

1. When appropriate, arrange for joint public meetings with customers to ensure that customers are aware of the need for water supply system improvement projects, and the potential impacts the projects will have on service rates.
2. Inform the DER of the PSC public meetings with customers and hearings in which water supply projects will be discussed.
3. Review proposed rate structures for private utilities within PSC jurisdiction.

4. Provide assistance in review of water conservation rate structures within PSC jurisdiction.
5. Monitor abandonment and bankruptcy proceedings for private water utilities within PSC jurisdiction. Inform the DER of pending abandonment and bankruptcy cases.
6. If an applicant for a DER permit challenges the interpretation of Section 367.031, F.S., the PSC agrees to provide legal and technical support to the DER in any related administrative hearings or legal proceedings.

#### Wastewater Management

1. When appropriate, arrange for joint public meetings with customers to ensure that customers are aware of the need for wastewater management system improvement projects, and the potential impacts the projects will have on service rates.
2. Inform the DER of the PSC public meetings with customers and hearings in which wastewater management projects will be discussed.
3. Review proposed rate structures for private wastewater management utilities within PSC jurisdiction.
4. Monitor abandonment and bankruptcy proceedings for private wastewater utilities within PSC jurisdiction. Inform the DER of pending abandonment and bankruptcy cases.
5. If an applicant for a DER permit challenges the interpretation of Section 367.031, F.S., the PSC agrees to provide legal and technical support to the DER in any related administrative hearings or legal proceedings.
6. The DER has adopted rules requiring utilities to perform timely planning, design, and construction of expanded facilities to ensure that sufficient wastewater treatment, disposal, and reuse capacity is available. In light of DER rules, the PSC agrees to evaluate capacity constraints imposed by statute and rules on private utilities within PSC jurisdiction, by PSC's application of the "used and useful" concept. If justified, this evaluation shall include assessment of possible need for statutory or rule revisions.

#### Reuse

1. When appropriate, arrange for joint public meetings with customers to ensure that customers are made aware of the need for reuse system improvement projects, and the potential impacts the projects will have on service rates.

2. Inform the DER of the PSC public meetings with customers and hearings in which reuse of reclaimed water will be discussed.
3. Provide feasibility analyses of the financial impacts, if any, of reuse system projects on both the customers and the wastewater utilities within PSC jurisdiction.
4. Within 10 days of receipt of a reuse feasibility study, the PSC staff shall review the document for completeness of the financial aspects and shall notify the DER whether or not the document is complete and whether or not the PSC will be able to conduct a complete review. If the PSC staff determines that it will be able to review the document, the PSC staff shall provide comments and recommendations to the DER within 30 days of receipt of the complete document.
5. Participate in appropriate DER hearings in which the feasibility of reuse will be discussed.
6. Review proposed rate structures for reuse projects for private utilities within PSC jurisdiction. As noted in Section 403.064(6), F.S., and pursuant to Chapter 367, F.S., the PSC shall allow utilities which implement reuse projects to recover the full cost of such facilities through their rate structures.
7. Assist the water management districts in review of reuse feasibility studies associated with the mandatory reuse program in Chapter 17-40, F.A.C., and other reuse-related activities of the water management districts in the counties within PSC jurisdiction. A separate MOU between the water management districts and the PSC governs these activities.

#### DER RESPONSIBILITIES

The following is a general description of the roles and responsibilities of the DER related to potable water supply, water conservation, wastewater management, and reuse of reclaimed water. The DER agrees to adopt and implement policies and procedures necessary to administer these duties.

##### Water Supply

1. Review applications for construction of potable water supply systems.
2. Monitor compliance of potable water supply systems with applicable rules and drinking water standards.

3. Notify the PSC of impending abandonment or bankruptcy cases involving water utilities and assist the PSC in such cases, as needed.
4. For utilities subject to Chapter 367, F.S., the DER shall verify the existence of a certificate of authorization or order indicating exempt status from the PSC before issuance of a construction permit for a new water system.

#### Wastewater Management

1. Review applications for construction and operation of domestic wastewater facilities.
2. Monitor compliance of domestic wastewater management facilities with applicable rules and effluent discharge limitations.
3. Monitor water quality in the State's ground waters and surface waters.
4. Notify the PSC of impending abandonment or bankruptcy cases involving wastewater utilities and assist the PSC in such cases, as needed.
5. For utilities subject to Chapter 367, F.S., the DER shall verify the existence of a certificate of authorization or order indicating exempt status from the PSC before issuance of a construction permit for a new wastewater facility.

#### Reuse

1. Administer the State's reuse program.
2. Review reuse feasibility studies required by Section 403.064, F.S., the Antidegradation Policy, or the Indian River Lagoon System and Basin Act.
3. Within five working days after receipt of a reuse feasibility study required by Section 403.064, F.S., the Antidegradation Policy, or the Indian River Lagoon System and Basin Act, the DER shall provide a copy of the reuse feasibility study to the PSC. This applies only to feasibility studies produced by private utilities located within counties regulated by the PSC.
4. Final determinations on the adequacy of reuse feasibility studies will be made by the DER. Comments and recommendations made by the PSC on the financial aspects of these reuse feasibility studies will be considered by the DER.

5. Participate in appropriate PSC public meetings with customers and hearings in which reuse issues raised by the DER are to be discussed. This may include, but is not limited to, expert witness testimony.

## PROJECT COORDINATION

### Water Supply

1. The PSC will designate a Water Supply Project Manager.
2. The DER's Drinking Water Section Administrator will serve as the DER's Water Supply Project Manager.
3. Exchange of information between the DER and the PSC shall be through the designated Water Supply Project Managers. Copies of pertinent correspondence related to water supply and water conservation issues shall be sent to the appropriate agency's Water Supply Project Manager.

### Wastewater Management

1. The PSC will designate a Wastewater Management Project Manager.
2. The DER's Domestic Wastewater Section Administrator will serve as the DER's Wastewater Management Project Manager.
3. Exchange of information between the DER and the PSC shall be through the designated Wastewater Management Project Managers. Copies of pertinent correspondence related to wastewater management issues shall be sent to the appropriate agency's Wastewater Management Project Manager.

### Reuse

1. The PSC will designate a Reuse Project Manager. All reuse feasibility studies provided to the PSC by the DER will be directed to this Project Manager.
2. The DER's Reuse Coordinator will serve as the DER's Reuse Project Manager for purposes of this agreement.
3. Reuse feasibility studies to be submitted to the PSC will be submitted over the signature of the DER Reuse Coordinator or over the signature of one of the six Water Facilities Administrators located in the DER district offices.

4. The DER Reuse Coordinator shall be copied on any correspondence between the PSC's Project Manager and the DER's Water Facilities Administrators regarding reuse feasibility studies.
5. Whenever a potential conflict regarding a specific project is identified, each agency will examine the alternative solutions available and then meet to discuss the issues involved and attempt to reach an agreement before announcing a position. If an agreement cannot be reached after due deliberations, several positions may be advocated. Such disagreements, if any, will not obviate this MOU.
6. Exchange of information between the DER and the PSC shall be through the designated Reuse Project Managers. Copies of pertinent correspondence between an agency and other parties concerning a reuse project shall be sent to the Reuse Project Manager of each agency until project completion.

#### Overall Coordination

The designated Water Supply, Wastewater Management, and Reuse Project Managers from the DER and the PSC shall meet as necessary, but at least annually, with the Director of the Water and Wastewater Division of the PSC and the Director of the Division of Water Facilities of the DER. The meetings will address and review progress on the water supply, wastewater management, and reuse programs in Florida and attempt to resolve any issues which may be identified by the staffs.

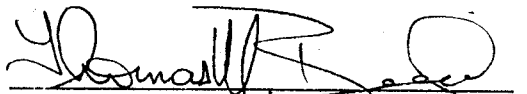
#### **AMENDMENTS**

This MOU may be amended by mutual agreement of the DER and PSC. It shall remain in effect until it is dissolved by mutual agreement among the agencies or terminated by an agency after giving written notice 30 days in advance to the other agency.



EFFECTIVE DATE AND SIGNATURES

This MOU will become effective after being signed by both parties.



Thomas M. Beard, Chairman  
Florida Public Service  
Commission



Carol M. Browner, Secretary  
Department of Environmental  
Regulation

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Date

Nov 20, 92  
Date