



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

RECEIVED FPSC
JUL 21 PM 1:07
RECORDS AND REPORTING

DATE: JULY 23, 1998

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF APPEALS (MOORE) *CM RUF CM JB R*
 DIVISION OF WATER AND WASTEWATER (VON FOSSEN)
 DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) *KL DM*

RE: DOCKET NO. 980903-WS - PROPOSED AMENDMENT TO RULE 25-30.320, F.A.C., REFUSAL OR DISCONTINUANCE OF SERVICE

AGENDA: AUGUST 4, 1998 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY BE DEFERRED

FILE NAME AND LOCATION: S:\PSC\APP\WP\980903.RCM

ISSUE 1: Should the Commission revise Rule 25-30.320 to authorize a utility to discontinue water service for nonpayment of municipal sewer service under the circumstances specifically provided in section 159.18(2), Florida Statutes?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Section 159.18(2), Florida Statutes, authorizes a municipality to enter into a contract with a utility for the utility to discontinue water service to a customer who is also served by the municipal sewer service if the customer fails to pay for the sewer service. The Commission's rule governing discontinuance of service, however, does not permit a utility to discontinue water service for this reason. Specifically, section 159.18(2) states:

Any municipality shall have power to enter into valid and legally binding contracts with any person, public or private corporation, board or other body supplying water to any premises served by the sewer system or facilities of the municipality for the shutting off and

DOCUMENT NUMBER-DATE

07639 JUL 21 8

FPSC-RECORDS/REPORTING

discontinuing of the supply of water to such premises as long as any charges for the sewer services or facilities of the municipality are unpaid, under such terms and conditions as shall be mutually agreed upon, including provisions for the billing and collecting of the sewer charges of the municipality by the owners of the water facilities at the same time water charges are billed and collected by such owners of the water facilities.

In Order No. PSC-97-1362-FOF-WU, issued October 28, 1997, the Commission approved a tariff revision for Florida Public Utilities Company (FPUC) to enter into an agreement with the City of Fernandina Beach to discontinue water service for nonpayment of the City's sewer service charges. The Commission also decided to initiate rulemaking to eliminate the conflict between the rule and section 159.18(2), Florida Statutes, and give effect to agreements entered into under the statute. The recommended rule change will specifically authorize utilities to discontinue service under the circumstances provided in the statute.

Statement of Estimated Regulatory Cost:

The recommended rule change may reduce costs to utilities and the Commission by eliminating the need for proceedings to waive the rule. Because invoking this rule amendment is predicated on a voluntary agreement between the utility and the municipality, neither party is expected to incur any additional cost in complying with the rule amendment. Billing and collection agreements could result in an additional source of income for the utility and could lower the cost of billing, collection and discontinuance of service for the municipality.

ISSUE 2: If no requests for hearing or comments are filed, should the rule as proposed be filed for adoption with the Secretary of State and the docket be closed?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Unless comments or a request for hearing is filed, the rule as proposed may be filed with the Secretary of State for adoption without further Commission action. The docket may then be closed.

Attachments:

Proposed Rule
SERC

1 25-30.320 Refusal or Discontinuance of Service.

2 (1) No Change.

3 (2) As applicable, the utility may refuse or discontinue
4 service under the following conditions provided that, unless
5 otherwise stated, the customer shall be given written notice and
6 allowed a reasonable time to comply with any rule or remedy any
7 deficiency:

8 (a) For noncompliance with or violation of any state or
9 municipal law or regulation governing such utility service.

10 (b) For failure or refusal of the customer to correct any
11 deficiencies or defects in his piping or equipment which are
12 reported to him by the utility.

13 (c) For the use of utility service for any other property
14 or purpose than that described in the application.

15 (d) For failure or refusal to provide adequate space for
16 the meter or service equipment of the utility.

17 (e) For failure or refusal to provide the utility with a
18 deposit to insure payment of bills in accordance with the
19 utility's regulation.

20 (f) For neglect or refusal to provide reasonable access to
21 the utility for the purpose of reading meters or inspection and
22 maintenance of equipment owned by the utility.

23 (g) For nonpayment of bills, including nonpayment of
24 municipal sewer service under circumstances specifically provided
25 in section 159.18(2), F.S., or noncompliance with the utility's

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

1 | rules and regulations in connection with the same or a different
2 | type or a different class of utility service furnished to the
3 | same customer at the same premises by the same or affiliated
4 | utility only after there has been a diligent attempt to have the
5 | customer comply, including at least 5 working days' written
6 | notice to the customers. Such notice shall be separate and apart
7 | from any bill for service. For purposes of this subsection,
8 | "working day" means any day on which the utility's office is open
9 | and the U.S. Mail is delivered. A utility shall not, however,
10 | refuse or discontinue service for nonpayment of a dishonored
11 | check service charge imposed by the utility.

12 | (h) - (j) No change.

13 | (3) - (6) No change.

14 | **Specific Authority:** 350.127(2), 367.121, F.S.

15 | **Law Implemented:** 367.081, 367.111, 367.121, F.S.

16 | **History:** Amended 9/12/74, 4/3/80, formerly 25-10.74, 25-10.074,
17 | Amended 11/9/86, 1/1/91, 1/11/93, 11/30/93, _____.

18 |
19 |
20 |
21 |
22 |
23 |
24 |
25 |

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

MEMORANDUM

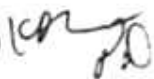
RECEIVED

JUN 26 1998

June 26, 1998

General Counsel's Office
Florida Public Service Commission

TO: DIVISION OF APPEALS (MOORE)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (LEWIS) 

SUBJECT: PROPOSED AMENDMENTS TO RULE 25-30.320, F.A.C., REFUSAL OR DISCONTINUANCE OF SERVICE

SUMMARY OF THE RULE

Presently, subsections (a) through (j) of Rule 25-30.320(2), F.A.C., enumerate the conditions under which a water or wastewater utility may refuse or discontinue service. Subsection (g) permits a utility to discontinue service for nonpayment of bills in connection with the same or a different type or class of utility service furnished to the same customer at the same premises by the same or affiliated utility. The proposed amendment to subsection (g) would add a provision permitting the discontinuance of service for nonpayment of municipal sewer service under the circumstances specifically provided in Section 159.18(2), F.S. According to Section 159.18(2), F.S., a municipality may enter into a contract with a person, public or private corporation, board or other body which supplies water to any premises served by the municipal sewer system for the shutting off and discontinuing of the supply of water to such premises for nonpayment of charges for sewer services or facilities of the municipality. The regulated water utility would be required to provide adequate notice to the customer in compliance with existing rules governing discontinuance of service.

ESTIMATED NUMBER AND DESCRIPTION
OF INDIVIDUALS AND ENTITIES IMPACTED

There will be a potential impact on regulated water utilities and their customers who receive sewer service from a municipality. At present, there are 217 regulated water utilities in Florida.

Staff surveyed Class A and B water utilities to determine whether any of their customers receive sewer service from a municipality. Six respondents have water customers who receive municipal sewer service. In total, these six water companies serve approximately 37,000 customers, though only a portion of those customers receive municipal sewer service. Two of the six utilities already have billing and collection agreements with municipalities, two were considering such agreements, and two had no plans to enter into such agreements at present. It is not known how many Class C water utilities may have customers who receive sewer service from a municipality.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

Adoption of the proposed rule amendment could reduce costs to the Commission because staff and commissioners would no longer have to spend time on docketed requests for waivers of the rule filed by water utility companies. Municipalities which only provide sewer service must presently dig up or plug sewer lines in order to discontinue service to a non-paying customer. Municipalities may be able to reduce costs for discontinuing service, and achieve more efficient operations by entering into contracts with water utilities to effectively discontinue sewer service through the interruption of water service. The rule is not expected to result in any direct costs to this agency or other state or local government entities.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

The decision to enter into a contract is voluntary for both the water utility company and the municipality. Neither party is expected to incur any additional costs to comply with the proposed rule amendment. Water utilities would avoid the costs associated with having to file a formal request for a waiver of Rule 25-30.320(2)(g) when they wish to enter into such contracts with municipalities. Water utilities could gain an additional source of revenue from billing and collection contracts with municipalities. Municipalities should have fewer late or nonpayments, and agreements with a water utility to discontinue water service could be less costly than other methods of discontinuing sewer service.

Customers who do not pay their municipal sewer bills would be subject to having their water service disconnected if the proposed amendment becomes effective. However, such customers are already subject to having sewer service discontinued by the municipality if they fail to pay their bill. Discontinuing water service effectively discontinues sewer service since sewer service cannot work without water.

IMPACT ON SMALL BUSINESS, SMALL CITIES, OR SMALL COUNTIES

The proposed rules are not expected to have a negative or disproportionate impact on small businesses, small cities, or small counties. Regulated water utilities which also meet the statutory definition of a small business (most Class C utilities), could enter into billing and collection agreements with municipalities. Such an agreement could provide an additional source of revenue to the utility. Small cities or counties could benefit if entering into a contract with a regulated utility lowers the costs of billing, collection or discontinuance of service and/or results in more efficient operations.

REASONABLE ALTERNATIVE METHODS

No reasonable alternative methods are known that would substantially accomplish the objective of the law being implemented (Section 159.18, F.S.). The alternative of not adopting the proposed amendment would allow the rule to remain inconsistent with the statute (as the statute has been interpreted by the Commission in Orders PSC-97-1362-FOF-WU and PSC-98-0685-FOF-WS).

KDL:tf/e-wrfuse.tnf