

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION  
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

NOV-3 PM 2:09

I hereby certify:

CLERK

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

2010 NOV -2 AM 11:31  
FILED  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

DOCUMENT NUMBER DATE

09145 NOV-3 09

FPSC-COMPLIANCE DIVISION

[ ] (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No.

25-30.0371

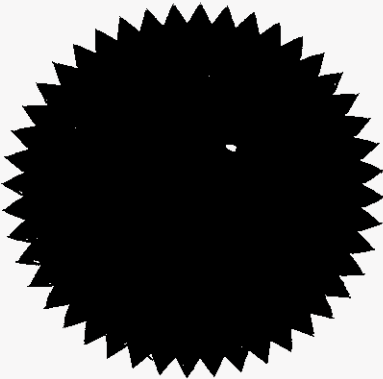
Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_  
(month) (day) (year)

  
\_\_\_\_\_

COMMISSION CLERK

\_\_\_\_\_  
Number of Pages Certified



CM

FILED  
2010 NOV - 2 11:11  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

1 25-30.0371 Acquisition Adjustments.

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

6 (2) Positive Acquisition Adjustments. A positive acquisition adjustment shall not be included in rate  
7 base absent proof of extraordinary circumstances. Any entity that believes a full or partial positive acquisition  
8 adjustment should be made has the burden to prove the existence of extraordinary circumstances. In determining  
9 whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided  
10 to the Commission such as anticipated improvements in quality of service, anticipated improvements in  
11 compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, and  
12 anticipated cost efficiencies, and whether the purchase was made as part of an arms-length transaction.

13 Amortization of a positive acquisition adjustment shall be pursuant to subsection (4)(a) below.

14 (3) Negative Acquisition Adjustments. If the purchase price is greater than 80 percent of net book value,  
15 a negative acquisition adjustment will not be included in rate base. When the purchase price is equal to or less  
16 than 80 percent of net book value, a negative acquisition adjustment shall not be included in rate base and will  
17 be equal to 80 percent of net book value less the purchase price. Amortization of a negative acquisition  
18 adjustment shall be pursuant to subsection (4)(b)1. or (4)(b)2. below. unless there is proof of extraordinary  
19 circumstances or where the purchase price is less than 80 percent of net book value. If the purchase price is less  
20 than 80 percent of net book value then the inclusion of a negative acquisition adjustment shall be calculated  
21 pursuant to paragraph (b) below.

22 (a) Contested. Any entity that believes a full or partial negative acquisition adjustment should be made  
23 has the burden to prove the existence of extraordinary circumstances. Under no circumstance, however, shall the  
24 purchaser be required to record on its books more than 70 percent of a negative acquisition adjustment. In  
25 determining whether extraordinary circumstances have been demonstrated, the Commission shall consider

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

1 evidence provided to the Commission such as the anticipated retirement of the acquired assets and the condition  
2 of the assets acquired.

3 (b) ~~Uncontested. If the purchase price is less than 80 percent of net book value, then the amount of the~~  
4 ~~difference in excess of 20 percent of net book value shall be recognized for ratemaking purposes as a negative~~  
5 ~~acquisition adjustment. The negative acquisition adjustment shall not be recorded on the books for ratemaking~~  
6 ~~purposes or used for any earnings review unless the purchaser files for a rate increase pursuant to Section~~  
7 ~~367.081(2), 367.0814, 367.0817 or 367.0822, F.S., that will be effective during the amortization period. The~~  
8 ~~negative acquisition adjustment shall be amortized over a 5-year period from the date of issuance of the order~~  
9 ~~approving the transfer of assets.~~

10 (4) Amortization Period.

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

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

17 1. If the purchase price is greater than 50 percent of net book value, the negative acquisition adjustment  
18 shall be amortized over a 7-year period from the date of issuance of the order approving the transfer of assets. In  
19 this case, the negative acquisition adjustment shall not be recorded on the books for ratemaking purposes or used  
20 for any earnings review unless the purchaser files for a rate increase pursuant to Sections 367.081(2), 367.0814,  
21 367.0817 or 367.0822, F.S., that will be effective during the amortization period.

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

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

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

#### SUMMARY OF RULE

The proposed rule amendments separate cases involving negative acquisitions adjustments in water and wastewater into two groups--those in which the difference between purchase price and net book value is greater than 50 percent, and those in which the difference is 50 percent or less. If the purchase price is 50 percent or less of net book value, half of the negative acquisition adjustment is amortized over seven years, and half over the remaining life of the assets purchased. This amortization provides a greater sharing with customers and puts downward pressure on rate base.

#### SUMMARY OF HEARINGS ON THE RULE

No hearing was requested and none was held.

#### FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

The proposed changes are designed to give more of the benefit of a negative acquisition adjustment to the ratepayers by increasing the amortization period of the acquisition adjustment, especially for those cases in which the systems are purchased at a significant discount. In April, 2009, a case came before the Commission involving the sale of a relatively new utility at a large discount. There was a situation where there was not be as great a need to encourage the purchase of a utility. Thus, these revisions are aimed at balancing the goal of encouraging acquisition with the goal of allowing ratepayers to share in the benefit of a negative acquisition adjustment.

**FILED**  
2010 NOV - 2 AM 11: 31  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA