

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of rulemaking to amend Rule 25-30.0371, F.A.C., pertaining to Acquisition Adjustments for water and wastewater utilities. | DOCKET NO. 100338-WS
ORDER NO. PSC-10-0668-FOF-WS
ISSUED: November 3, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
ART GRAHAM
RONALD A. BRISÉ

NOTICE OF ADOPTION OF RULE

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has adopted the amendments to Rule 25-30.0371, Florida Administrative Code, relating to acquisition adjustments without changes.

The rule was filed with the Department of State on November 2, 2010 and will be effective on November 22, 2010. A copy of the rule as filed with the Department is attached to this Notice.

This docket is closed upon issuance of this notice.

By ORDER of the Florida Public Service Commission this 3rd day of November, 2010.



ANN COLE
Commission Clerk

(SEAL)

CM

DOCUMENT NUMBER DATE

09148 NOV-3 2010

FPSC-COMMISSION CLERK

25-30.0371 Acquisition Adjustments.

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

(2) Positive Acquisition Adjustments. A positive acquisition adjustment shall not be included in rate base absent proof of extraordinary circumstances. Any entity that believes a full or partial positive acquisition adjustment should be made has the burden to prove the existence of extraordinary circumstances. In determining whether extraordinary circumstances have been demonstrated, the Commission shall consider evidence provided to the Commission such as anticipated improvements in quality of service, anticipated improvements in compliance with regulatory mandates, anticipated rate reductions or rate stability over a long-term period, ~~and anticipated cost efficiencies, and whether the purchase was made as part of an arms-length transaction.~~ Amortization of a positive acquisition adjustment shall be pursuant to subsection (4)(a) below.

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

~~than 80 percent of net book value then the inclusion of a negative acquisition adjustment shall be calculated pursuant to paragraph (b) below.~~

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

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

(4) Amortization Period.

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

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

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

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

(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 _____.