

STATE OF FLORIDA

COMMISSIONERS:
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ART GRAHAM
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MIKE LA ROSA



OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

January 6, 2021

Mr. Ernest Reddick
Florida Department of State
Administrative Code and Register Section
Room 701, the Capitol
Tallahassee, FL 32399-0250
AdministrativeCode@dos.myflorida.com.

Via E-Mail and US Mail

Re: Rule Certification Packet for Rule 25-30.116, F.A.C., Allowance for Funds Used During Construction

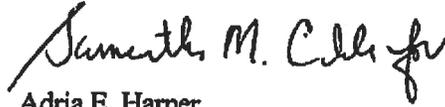
Dear Mr. Reddick:

Enclosed for filing is a complete rule certification packet for Rule 25-30.116, F.A.C., consisting of:

- (1) One copy of the coded text of the rule in Word version;
- (2) There are no materials incorporated by reference into this rule.
- (3) One copy of the signed rule certification form;
- (4) One copy of the signed designation of minor violation rule certification form required by Rule 1-1.010, F.A.C.;
- (5) One copy of the coded text of the rule, including the legal citations and history notes;
- (6) One copy of the summary of the rule;
- (7) One copy of the detailed written statement of the facts and circumstances justifying the rule; and
- (8) One copy of the summary of the hearings held on the rule.

Please let me know if you have any questions. The contact name and information for this rule are Adria E. Harper, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, aharper@psc.state.fl.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Adria E. Harper". The signature is written in a cursive style with a large initial "A".

Adria E. Harper
Senior Attorney

Enclosures

cc: Office of the Commission Clerk (Docket No. 20200237-PU)

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

I hereby certify:

(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

(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

(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 is 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 Nos.

25-30.116

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 Date: _____.



Person Authorized to Certify Rules

Commission Clerk

Title

4

Number of Pages Certified

**DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION
CERTIFICATION**

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

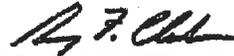
Rule No(s).

25-30.116

Rules covered by this certification:

Rule No(s).

25-30.116



Signature of Agency Head

Chairman, Florida Public Service Commission

Title

25-30.116 Allowance for Funds Used During Construction.

(1) Definition of terms for this rule.

(a) Allowance for funds used during construction (AFUDC) is the carrying cost of funding an eligible utility project investment during its construction.

(b) A project means a temporary endeavor with a defined beginning and end series of tasks that need to be completed in order to reach a specific outcome (e.g., a specific utility investment placed into service or devoted to public use for the provision of utility service), designed to produce an in-service plant investment result.

(2)(4) Construction work in progress (CWIP) that is not included in rate base may accrue allowance for funds used during construction (AFUDC), under the following conditions:

(a) Eligible projects. The following projects may be included in CWIP and accrue AFUDC:

1. Projects that involve gross additions to plant in excess of \$5,000 and

a.2. Are expected to be completed in excess of sixty days after commencement of construction, or

b.3. Were originally expected to be completed in sixty days or less but are not ready for service after sixty days.

2. A utility may bundle related projects that achieve a specific outcome if it demonstrates that the total cost of the bundled projects excluding AFUDC is less than the total cost of the unbundled projects.

(b) Ineligible projects. The following projects may be included in CWIP, but may not accrue AFUDC:

1. Projects, or portions thereof, that do not exceed the level of CWIP included in rate base in the company's last rate case.

2. Projects where gross additions to plant are less than \$5,000.

3. Projects expected to be completed in less than sixty days after commencement of construction.

4. Property that has been classified as Property Held for Future Use.

(c) Unless otherwise authorized by the Commission, the following projects may not be included in CWIP nor accrue AFUDC:

1. Projects that are reimbursable by another party.

2. Projects that have been cancelled.

3. Purchases of assets which are ready for service when acquired.

4. Portions of projects providing service during the construction period.

(d) Other conditions. Accrual of AFUDC is subject to the following conditions:

1. Accrual of AFUDC is not to be reversed when a project originally expected to be completed in excess of sixty days is completed in sixty days or less;

2. AFUDC may not be accrued retroactively if a project expected to be completed in sixty days or less is subsequently suspended for six months, or is not ready for service after sixty days;

3. When a project is completed and ready for service, it ~~must shall~~ be immediately transferred to the appropriate plant account(s) or Account 106, Completed Construction Not Classified, and may no longer accrue AFUDC;

4. Where a work order covers the construction of more than one property unit, the AFUDC accrual ~~must shall~~ cease on the costs related to each unit when that unit reaches an in-service status;

5. When the construction activities for an ongoing project are expected to be suspended for a period exceeding six (6) months, the utility ~~must shall~~ notify the Commission of the suspension and the reason(s) for the suspension, and ~~must shall~~ submit a proposed accounting treatment for the suspended project; and

6. When the construction activities for a suspended project are resumed, the previously accumulated costs of the project may not accrue AFUDC if such costs have been included in rate base for ratemaking purposes. However, the accrual of AFUDC may be resumed when the previously accumulated costs are no longer included in rate base for ratemaking purposes.

(e) Subaccounts. Account 105, Construction Work in Progress, ~~must shall~~ be subdivided so as to segregate the cost of construction projects that are eligible for AFUDC from the cost of construction projects that are ineligible for AFUDC.

(f) Prior to the commencement of construction on a project, a utility may file a petition to seek approval to include an individual project in rate base that would otherwise qualify for AFUDC treatment per paragraph (2)(a).

(g) On a prospective basis, the Commission, upon its own motion, may determine that the potential impact on rates may require the exclusion of an amount of CWIP from a utility's rate base that does not qualify for AFUDC treatment per paragraph (2)(a) and to allow the utility to accrue AFUDC on that excluded amount.

~~(3)(2)~~ The applicable AFUDC rate ~~will shall~~ be determined as follows:

a) The most recent 12-month average embedded cost of capital, except as noted below, ~~must shall~~ be derived using all sources of capital and adjusted using adjustments consistent with those used by the Commission in the Company's last rate case.

(b) The cost rates for the components in the capital structure ~~will shall~~ be the midpoint of the last allowed return

on common equity, the most recent 12-month average cost of short term debt and customer deposits and a zero cost rate for deferred taxes and all investment tax credits. The cost of long term debt and preferred stock will shall be based on end of period cost. The annual percentage rate must shall be calculated to two decimal places.

(c) A company that has not had its equity return set in a rate case must shall calculate its return on common equity by applying the most recent water and wastewater equity leverage formula.

~~(d) The treatment by the Commission of all investment tax credits at a zero cost rate shall be contingent upon a ruling from the Internal Revenue Service that such treatment will not, for companies elected to be treated under Section 46(f)(2) of the Internal Revenue Code, result in the forfeiture of the tax credits. Pending receipt of such a ruling, each utility shall continue to use the weighted overall cost of capital calculated in a manner consistent with the final IRS Regulation Section 1.46-6 published May 22, 1986, as the cost of the utility's 4% and 10% investment tax credits.~~

~~(e) Any such ruling request must be submitted to the Commission by December 15, 1987. The AFUDC cost rate for the investment tax credit for any company which fails to submit its own letter ruling request to the IRS shall be governed by the first letter ruling issued by the IRS in response to a request submitted pursuant to paragraph (2)(d) of this rule.~~

~~(4)(3) Discounted monthly AFUDC rate. A discounted monthly AFUDC rate, calculated to six decimal places, must shall be employed to ensure insure that the annual AFUDC charged does not exceed authorized levels.~~

(a) The formula used to discount the annual AFUDC rate to reflect monthly compounding is as follows:

$$M = \frac{[(1 + A/100)^{1/12} - 1] \times 100}{[(1 + A/100)^{1/12} - 1] \times 100}$$

Where:

M = discounted monthly AFUDC rate

A = annual AFUDC rate

(b) The monthly AFUDC rate, carried out to six decimal places, must shall be applied to the average monthly balance of eligible CWIP that is not included in rate base.

~~(5)(4) The following schedules must shall be filed with each petition for a change in AFUDC rate:~~

(a) Schedule A. A schedule showing the capital structure, cost rates and weighted average cost of capital that are the basis for the AFUDC rate in subsection ~~(3)(2)~~.

(b) Schedule B. A schedule showing capital structure adjustments including the unadjusted capital structure,

reconciling adjustments and adjusted capital structure that are the basis for the AFUDC rate in subsection ~~(3)~~(2).

(c) Schedule C. A schedule showing the calculation of the monthly AFUDC rate using the methodology set out in this rule.

~~(6)~~(5) No utility may charge or change its AFUDC rate without prior Commission approval. The new AFUDC rate ~~will~~ shall be effective the month following the end of the 12-month period used to establish that rate and may not be retroactively applied to a previous fiscal year unless authorized by the Commission.

~~(7)~~(6) Each utility charging AFUDC must shall include with its Annual Report to the Commission Schedules A and B identified in subsection ~~(5)~~(4) of this rule, as well as disclosure of the AFUDC rate it is currently charging.

~~(8)~~(7) The Commission may, on its own motion, initiate a proceeding to revise a utility's AFUDC rate.

~~(8) Paragraphs (a) and (b) of subsection (1) shall not be effective for any utility until it implements final rates in a general rate case initiated after the effective date of this rule. The foregoing notwithstanding, these provisions will become effective for all utilities no later than January 1, 1989.~~

Rulemaking Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 350.115, 367.081(2), 367.121(1)(b) FS.

History—New 8-11-86, Formerly 25-30.121, Amended 11-13-86, 12-7-87, _____.

SUMMARY OF THE RULE

Rule 25-30.116, F.A.C., Allowance for Funds Used During Construction, describes the requirements and methodology for accruing Allowance for Funds Used During Construction (AFUDC) for investor-owned water and wastewater utilities.

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

The amendments to Rule 25-30.116, F.A.C., update and clarify the rule and include the addition of a definition section; clarification that a utility may bundle projects under certain circumstances; and the amendment of the formula for calculating the discounted monthly AFUDC rate.

SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.



FLORIDA DEPARTMENT OF STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

January 6, 2021

Adria E. Harper
Senior Attorney
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0250

Attention: Julie Phillips

Dear Ms. Harper:

Your adoption package for Rule 25-30.116, F.A.C. was received, electronically, by the Florida Department of State, Administrative Code and Register, at 9:11 a.m. on January 6, 2021. After review, it appears that the package meets statutory requirements and those of Rule 1-1.010, F.A.C. and is deemed filed for adoption at the time received, as indicated above. The effective date is January 26, 2021.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/ag

Julie Phillips

From: Grosenbaugh, Anya C. <Anya.Grosenbaugh@dos.myflorida.com>
Sent: Wednesday, January 06, 2021 9:40 AM
To: Julie Phillips
Cc: Adria Harper; Reddick, Ernest L.; JAPC@leg.state.fl.us
Subject: RE: Rule Certification Packet for 25-6.116, F.A.C.
Attachments: 25-30.116.pdf

Good morning,

I am attaching the filed copy of 25-30.116, F.A.C.

Best,

Anya Grosenbaugh

Government Operations Consultant III
Florida Administrative Code and Register
Room 701, The Capitol | Tallahassee, Florida
850.245.6271

From: Julie Phillips <JPhillip@PSC.STATE.FL.US>
Sent: Wednesday, January 6, 2021 9:11 AM
To: Administrative Code <AdministrativeCode@DOS.MyFlorida.com>
Cc: Adria Harper <aharper@psc.state.fl.us>; Julie Phillips <JPhillip@PSC.STATE.FL.US>
Subject: Rule Certification Packet for 25-6.116, F.A.C.

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

The Rule Certification Packet for the aforementioned rule, with the PDF attachment of the entire packet, along with the Word version of the coded text of the rule.

We await your confirmation email.

Thank you.

Julie Phillips
Office of the General Counsel
Florida Public Service Commission
850.413.6084

Grosenbaugh, Anya C.

From: Julie Phillips <JPhillip@PSC.STATE.FL.US>
Sent: Wednesday, January 6, 2021 9:11 AM
To: Administrative Code
Cc: Adria Harper; Julie Phillips
Subject: Rule Certification Packet for 25-6.116, F.A.C.
Attachments: 25-30.116 cert pkt for DOS.pdf; 25-30.116 10 pt. for adoption.docx

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

The Rule Certification Packet for the aforementioned rule, with the PDF attachment of the entire packet, along with the Word version of the coded text of the rule.

We await your confirmation email.

Thank you.

Julie Phillips
Office of the General Counsel
Florida Public Service Commission
850.413.6084

WILTON SIMPSON
President



Representative Rick Roth, Chair
Senator Ben Albritton, Vice Chair
Senator Lorraine Ausley
Senator Jason Brodeur
Senator Danny Burgess
Senator Shevrin D. "Shev" Jones
Representative Demi Busatta Cabrera
Representative Anna V. Eskamani
Representative Sam Garrison
Representative Thomas Patterson "Patt" Maney
Representative Angela "Angie" Nixon

CHRIS SPROWLS
Speaker



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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

CERTIFICATION

Department: Public Service Commission
Agency:
Rule No(s): 25-30.116
File Control No: 183285

As required by subparagraph 120.54(3)(e)4 F.S., the Joint Administrative Procedures Committee hereby certify that:

- There were no material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rule; or
- The adopting agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rules; or
- The adopting agency has not responded in writing to all material and timely written comments or written inquiries made on behalf of the Committee regarding the above listed rules.

Certification Date: 1/6/2021

This certification expires after: 1/13/2021

Certifying Attorney: Jamie Jackson

NOTE:

- The above certified rules include materials incorporated by reference.
- The above certified rules do not include materials incorporated by reference.