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2 An act relating to the Public Service
3 Commission; amending s. 367.081, F.S.;
4 prohibiting the commission from imputing
5 prospective future
6 contributions-in-aid-of-construction against
7 certain utility investments in certain rate
8 proceedings; providing construction; requiring
9 the commission to approve rates for certain
10 services under certain circumstances; providing
11 construction; deleting a requirement that the
12 commission consider a utility's investments in
13 certain lands or facilities in setting final
14 rates; amending s. 367.021, F.S.; redefining
15 the term "governmental authority"; amending s.
16 367.022, F.S.; eliminating the annual report
17 requirement for exempt resellers; providing for
18 an additional exemption; amending s. 367.071,
19 F.S.; authorizing specified transactions before
20 Public Service Commission approval; amending s.
21 367.0816, F.S.; removing provisions requiring
22 rate-case expense reductions at the conclusion
23 of the recovery period; amending 367.0814,
24 F.S.; authorizing the commission to authorize
25 the collection of interim rates under certain
26 circumstances; providing criteria; authorizing
27 the commission to require collection of certain
28 rate differentials; providing for finalization
29 of interim rates under certain circumstances;
30 providing for refund of certain rate
31 differentials under certain circumstances;

1 amending s. 367.082, F.S.; clarifying a
2 procedure relating to a withdrawal of a request
3 for rate relief during the pendency of a rate
4 case; amending s. 367.091, F.S.; requiring
5 utilities to notify local governing bodies of
6 the filing of an application for rate change;
7 requiring the Florida Public Service Commission
8 to grant petitions to intervene which are filed
9 by local governing bodies; providing an
10 effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Paragraph (a) of subsection (2) of section
15 367.081, Florida Statutes, is amended to read:

16 367.081 Rates; procedure for fixing and changing.--

17 (2)(a)1. The commission shall, either upon request or
18 upon its own motion, fix rates which are just, reasonable,
19 compensatory, and not unfairly discriminatory. In every such
20 proceeding, the commission shall consider the value and
21 quality of the service and the cost of providing the service,
22 which shall include, but not be limited to, debt interest; the
23 requirements of the utility for working capital; maintenance,
24 depreciation, tax, and operating expenses incurred in the
25 operation of all property used and useful in the public
26 service; and a fair return on the investment of the utility in
27 property used and useful in the public service. However, the
28 commission shall not allow the inclusion of
29 contributions-in-aid-of-construction in the rate base of any
30 utility during a rate proceeding, nor shall the commission
31 impute prospective future contributions-in-aid-of-construction

1 against the utility's investment in property used and useful
2 in the public service; and accumulated depreciation on such
3 contributions-in-aid-of-construction shall not be used to
4 reduce the rate base, nor shall depreciation on such
5 contributed assets be considered a cost of providing utility
6 service.

7 2. For purposes of such proceedings, the commission
8 shall consider utility property, including land acquired or
9 facilities constructed or to be constructed within a
10 reasonable time in the future, not to exceed 24 months after
11 the end of the historic base year used to set final rates
12 unless a longer period is approved by the commission, to be
13 used and useful in the public service, if:

14 a. Such property is needed to serve current customers;

15 b. Such property is needed to serve customers 5 years
16 after the end of the test year used in the commission's final
17 order on a rate request as provided in subsection (6) at a
18 growth rate for equivalent residential connections not to
19 exceed 5 percent per year; or

20 c. Such property is needed to serve customers more
21 than 5 full years after the end of the test year used in the
22 commission's final order on a rate request as provided in
23 subsection (6) only to the extent that the utility presents
24 clear and convincing evidence to justify such consideration.

25
26 Notwithstanding the provisions of this paragraph, the
27 commission shall approve rates for service which allow a
28 utility to recover from customers the full amount of
29 environmental compliance costs. Such rates may not include
30 charges for allowances for funds prudently invested or similar
31 charges. For purposes of this requirement, the term

1 "environmental compliance costs" includes all reasonable
2 expenses and fair return on any prudent investment incurred by
3 a utility in complying with the requirements or conditions
4 contained in any permitting, enforcement, or similar decisions
5 of the United States Environmental Protection Agency, the
6 Department of Environmental Protection, a water management
7 district, or any other governmental entity with similar
8 regulatory jurisdiction.~~The commission shall also consider~~
9 ~~the investment of the utility in land acquired or facilities~~
10 ~~constructed or to be constructed in the public interest within~~
11 ~~a reasonable time in the future, not to exceed, unless~~
12 ~~extended by the commission, 24 months from the end of the~~
13 ~~historical test period used to set final rates.~~

14 Section 2. Section 1 of this act does not apply to
15 rate cases that are pending on March 11, 1999.

16 Section 3. Subsection (7) of section 367.021, Florida
17 Statutes, is amended to read:

18 367.021 Definitions.--As used in this chapter, the
19 following words or terms shall have the meanings indicated:

20 (7) "Governmental authority" means a political
21 subdivision, as defined by s. 1.01(8), ~~or~~ a regional water
22 supply authority created pursuant to s. 373.1962, or a
23 nonprofit corporation formed for the purpose of acting on
24 behalf of a political subdivision with respect to a water or
25 wastewater facility.

26 Section 4. Section 367.022, Florida Statutes, is
27 amended to read:

28 367.022 Exemptions.--The following are not subject to
29 regulation by the commission as a utility nor are they subject
30 to the provisions of this chapter, except as expressly
31 provided:

- 1 (1) The sale, distribution, or furnishing of bottled
2 water.†
- 3 (2) Systems owned, operated, managed, or controlled by
4 governmental authorities, including water or wastewater
5 facilities operated by private firms under water or wastewater
6 facility privatization contracts as defined in s. 153.91, and
7 nonprofit corporations formed for the purpose of acting on
8 behalf of a political subdivision with respect to a water or
9 wastewater facility.†
- 10 (3) Manufacturers providing service solely in
11 connection with their operations.†
- 12 (4) Public lodging establishments providing service
13 solely in connection with service to their guests.†
- 14 (5) Landlords providing service to their tenants
15 without specific compensation for the service.†
- 16 (6) Systems with the capacity or proposed capacity to
17 serve 100 or fewer persons.†
- 18 (7) Nonprofit corporations, associations, or
19 cooperatives providing service solely to members who own and
20 control such nonprofit corporations, associations, or
21 cooperatives.†~~and~~
- 22 (8) Any person who resells water or wastewater service
23 at a rate or charge which does not exceed the actual purchase
24 price of the water or wastewater thereof, ~~if such person files~~
25 ~~at least annually with the commission a list of charges and~~
26 ~~rates for all water service sold, the source and actual~~
27 ~~purchase price thereof, and any other information required by~~
28 ~~the commission to justify the exemption; but such person is~~
29 ~~subject to the provisions of s. 367.122.~~
- 30 (9) Wastewater treatment plants operated exclusively
31 for disposing of industrial wastewater.

1 (10) The sale of bulk supplies of desalinated water to
2 a governmental authority.

3 (11) Any person providing only nonpotable water for
4 irrigation purposes in a geographic area where potable water
5 service is available from a governmentally or privately owned
6 utility or a private well.

7 (12) The sale for resale of bulk supplies of water or
8 the sale or resale of wastewater services to a governmental
9 authority or to a utility regulated pursuant to this chapter
10 either by the commission or the county.

11 Section 5. Subsection (1) of section 367.071, Florida
12 Statutes, is amended to read:

13 367.071 Sale, assignment, or transfer of certificate
14 of authorization, facilities, or control.--

15 (1) No utility shall sell, assign, or transfer its
16 certificate of authorization, facilities or any portion
17 thereof, or majority organizational control without
18 determination and approval of the commission that the proposed
19 sale, assignment, or transfer is in the public interest and
20 that the buyer, assignee, or transferee will fulfill the
21 commitments, obligations, and representations of the utility.
22 However, a sale, assignment, or transfer of its certificate of
23 authorization, facilities or any portion thereof, or majority
24 organizational control may occur prior to commission approval
25 if the contract for sale, assignment, or transfer is made
26 contingent upon commission approval.

27 Section 6. Section 367.0816, Florida Statutes, is
28 amended to read:

29 367.0816 Recovery of rate case expenses.--The amount
30 of rate case expense determined by the commission pursuant to
31 the provisions of this chapter to be recovered through a

1 public utilities rate shall be apportioned for recovery over a
2 period of 4 years. ~~At the conclusion of the recovery period,~~
3 ~~the rate of the public utility shall be reduced immediately by~~
4 ~~the amount of rate case expense previously included in rates.~~

5 Section 7. Section 367.0814, Florida Statutes, is
6 amended to read:

7 367.0814 Rates and charges; requests for staff
8 assistance in changing.--

9 (1) The commission may establish rules by which a
10 water or wastewater utility whose gross annual revenues are
11 \$150,000 or less may request and obtain staff assistance for
12 the purpose of changing its rates and charges. A utility may
13 request staff assistance by filing an application with the
14 commission.

15 (2) The official date of filing is established as 30
16 days after official acceptance by the commission of the
17 application. If a utility does not remit a fee, as provided
18 by s. 367.145, within 30 days after acceptance, the commission
19 may deny the application. The commission has 15 months after
20 the official date of filing within which to issue a final
21 order.

22 (3) The provisions of s. 367.081(1), (2)(a), and (3)
23 shall apply in determining the utility's rates and charges.

24 (4) The commission may, upon its own motion, or upon
25 petition from the regulated utility, authorize the collection
26 of interim rates until the effective date of the final order.
27 Such interim rates may be based upon a test period different
28 from the test period used in the request for permanent rate
29 relief. To establish interim relief, there must be a
30 demonstration that the operation and maintenance expenses
31 exceed the revenues of the regulated utility, and interim

1 rates shall not exceed the level necessary to cover operation
2 and maintenance expenses as defined by the Uniform System of
3 Accounts for Class C Water and Wastewater Utilities (1996) of
4 the National Association of Regulatory Utility Commissioners.

5 (5) The commission may require that the difference
6 between the interim rates and the previously authorized rates
7 be collected under bond, escrow, letter of credit, or
8 corporate undertaking subject to refund with interest at a
9 rate ordered by the commission.

10 (6)~~(4)~~ The utility, in requesting staff assistance,
11 shall agree to accept the final rates and charges approved by
12 the commission unless the final rates and charges produce less
13 revenue than the existing rates and charges.

14 (7)~~(5)~~ In the event of a protest or appeal by a party
15 other than the utility, the commission may provide for
16 temporary rates subject to refund with interest.

17 (8)~~(6)~~ If a utility becomes exempt from commission
18 regulation or jurisdiction during the pendency of a
19 staff-assisted rate case, the request for rate relief is
20 deemed to have been withdrawn. Interim rates, if previously
21 approved, shall become final. Temporary rates, if previously
22 approved, must be discontinued, and any money collected
23 pursuant to the temporary rates, or the difference between
24 temporary and interim rates, if previously approved, must be
25 refunded to the customers of the utility with interest.

26 (9)~~(7)~~ The commission may by rule establish standards
27 and procedures whereby rates and charges of small utilities
28 may be set using criteria other than those set forth in s.
29 367.081(1), (2)(a), and (3).

30 Section 8. Subsection (7) of section 367.082, Florida
31 Statutes, is amended to read:

1 367.082 Interim rates; procedure.--

2 (7) If a utility becomes exempt from commission
3 regulation ~~or jurisdiction~~ during the pendency of a rate case,
4 the request for rate relief pending before the commission is
5 deemed to have been withdrawn. Interim rates, if previously
6 approved, must be discontinued, and any money collected
7 pursuant to interim rate relief must be refunded to the
8 customers of the utility with interest.

9 Section 9. This act does not apply to rate cases
10 pending on March 11, 1999.

11 Section 10. Present subsections (2), (3), (4), and (5)
12 of section 367.091, Florida Statutes, are redesignated as
13 subsections (3), (4), (5), and (6), respectively, and a new
14 subsection (2) is added to that section, to read:

15 367.091 Rates, tariffs; new class of service.--

16 (2) Upon filing an application for new rates, the
17 utility shall mail a copy of the application to the chief
18 executive officer of the governing body of each county within
19 the service areas included in the rate request. The governing
20 body may petition the commission for leave to intervene in the
21 rate change proceeding and the commission shall grant
22 intervenor status to any governing body that files a petition.

23 Section 11. This act shall take effect upon becoming a
24 law.

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