

State of Florida

Commissioners:
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DIVISION OF APPEALS
DAVID E. SMITH
DIRECTOR
(904) 413-6245

ORIGINAL
FILE COPY

Public Service Commission

July 26, 1996

Mr. Carroll Webb
Joint Administrative Procedures
Committee
120 Holland Building
Tallahassee, Florida 32399

Re: Docket No. 960258-WS - Petition to Adopt Rules on Margin Reserve and Imputation of Contributions-In-Aid-Of-Construction on Margin Reserve Calculation, by Florida Waterworks Association

Dear Mr. Webb:

Enclosed are an original and two copies of the following materials concerning the above referenced proposed rule:

1. A copy of the rule.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rule.
4. A federal comparison statement.
5. A statement of the impact of the rule on small business.
6. An economic impact statement.
7. A statement that the agency has chosen the regulatory alternative that imposes the lowest net cost to society.

[Handwritten marks and lines, possibly a routing slip or tracking system, including a vertical line and various horizontal dashes.]

DOCUMENT NUMBER-DATE

07873 JUL 26 96

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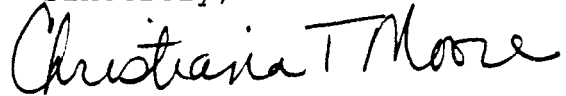
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Mr. Carroll Webb
July 26, 1996
Page -2-

If there are any questions with respect to this rule, please do not hesitate to call on me.

Sincerely,

A handwritten signature in cursive script that reads "Christiana T. Moore". The signature is written in black ink and is positioned to the right of the typed name.

Christiana T. Moore
Associate General Counsel

ADP30431.MRD
Enclosures
cc: Division of Records & Reporting

1 25-30.431 Margin Reserve

2 (1) "Margin reserve" is defined as the amount of plant
3 capacity needed to meet the expected demand due to customer growth.

4 (2) "Margin reserve period" is defined as the time period
5 needed to install the next economically feasible increment of plant
6 capacity that will preclude a deterioration in the quality of
7 service.

8 (3) Margin reserve is an acknowledged component of the used
9 and useful rate base determination that when requested and
10 justified shall be included in rate cases filed pursuant to section
11 367.081, Florida Statutes.

12 (4) Unless otherwise justified, the margin reserve period for
13 water source and treatment facilities and wastewater treatment and
14 effluent disposal facilities will be 18 months. Unless otherwise
15 justified, the margin reserve period for water transmission and
16 distribution lines and the wastewater collection system will be 12
17 months. In determining whether another margin reserve period is
18 justified, the Commission shall consider the rate of growth in the
19 number of equivalent residential connections (ERCs); the time
20 needed to meet the guidelines of the Department of Environmental
21 Protection (DEP) for planning, designing, and constructing of plant
22 expansion; and the technical and economic options available for
23 sizing increments of plant expansion.

24 (5) (a) Margin reserve for water source and treatment
25 facilities and wastewater treatment and effluent disposal

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

1 facilities shall be calculated as follows:

2 EG x MP x D = MR

3 where:

4 EG = Equivalent Annual Growth in ERCs
5 determined pursuant to (c) or (d)
6 below

7 MP = Margin Reserve Period determined
8 pursuant to subsection (4)

9 D = Demand per ERC (customer demand
10 applied in the used and useful
11 calculations for water and
12 wastewater facilities)

13 MR = Margin reserve expressed in gallons
14 per day (GPD)

15 (b) Margin reserve for water transmission and distribution
16 lines and the wastewater collection system shall be calculated as
17 follows:

18 EG x MP = MR

19 where:

20 EG = Equivalent Annual Growth in ERCs
21 determined pursuant to (c) or (d)
22 below

23 MP = Margin Reserve Period determined
24 pursuant to subsection (4)

25 MR = Margin reserve expressed in ERCs

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

1 (c) The equivalent annual growth in ERCs (EG) is measured in
2 terms of the projected annual growth and shall be calculated in
3 Schedules F-9 and F-10 of Form PSC/WAW 19 for Class A utilities and
4 Form PSC/WAW 20 for Class B utilities, incorporated by reference in
5 Rule 25-30.437.

6 (d) The utility shall also submit a linear regression
7 analysis using average ERCs for the last 5 years. The utility may
8 submit other information that will affect growth in ERCs.

9 (6) As part of its application filed pursuant to Rule 25-
10 30.437, the utility shall submit its most recent wastewater
11 capacity analysis report, if any, filed with DEP.

12 (7) Contributions-in-aid-of-construction (CIAC) shall be
13 imputed when a margin reserve is authorized. The amount of imputed
14 CIAC shall be determined based on the number of ERCs included in
15 the margin reserve period and the projected CIAC that will be
16 collected from those ERCs. However, the imputed CIAC shall not
17 exceed the rate base component associated with margin reserve.

18 Specific Authority: 367.121, F.S.

19 Law Implemented: 367.081, F.S.

20 History: New _____.

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

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 960258-WS

RULE TITLE:

RULE NO.:

Margin Reserve

25-30.431

PURPOSE AND EFFECT: The purpose of this rule is to codify the current policy on margin reserve and imputation of contributions-in-aid-of-construction (CIAC) on margin reserve calculations for water and wastewater utilities.

SUMMARY: Rule 25-30.431 defines "margin reserve"; provides that upon request and justification, margin reserve will be included in the used and useful determination in certain rate cases; that unless otherwise justified, the margin reserve period will be 18 months for water source and treatment facilities and wastewater treatment and effluent disposal facilities, and 12 months for water transmission and distribution lines and the wastewater collection system; and describes the mechanical aspects and data submission requirements. If margin reserve is authorized, a corresponding provision for the imputation of CIAC is prescribed; however, it is limited to the rate base component associated with margin reserve.

RULEMAKING AUTHORITY: 367.121 FS.

LAW IMPLEMENTED: 367.081 FS.

HEARING: A HEARING WILL BE HELD AT THE DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., December 10, 1996, continuing on December 11, 1996, if necessary.

PLACE: Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

PERSONS WHO INTEND TO PARTICIPATE IN THIS RULEMAKING PROCEEDING

SHOULD FILE A NOTICE OF INTENT TO PARTICIPATE WITH THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE. AN ORDER WILL BE ISSUED ESTABLISHING PREHEARING AND HEARING PROCEDURES TO BE FOLLOWED. WRITTEN COMMENTS AND TESTIMONY ON THE PROPOSED RULE MAY BE FILED NO LATER THAN OCTOBER 18, 1996. RESPONSIVE COMMENTS AND TESTIMONY MAY BE FILED NO LATER THAN NOVEMBER 15, 1996.

THE PERSON TO BE CONTACTED REGARDING THIS RULE AND THE ECONOMIC IMPACT STATEMENT IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399.

THE FULL TEXT OF THE RULE IS:

25-30.431 Margin Reserve

(1) "Margin reserve" is defined as the amount of plant capacity needed to meet the expected demand due to customer growth.

(2) "Margin reserve period" is defined as the time period needed to install the next economically feasible increment of plant capacity that will preclude a deterioration in the quality of service.

(3) Margin reserve is an acknowledged component of the used and useful rate base determination that when requested and justified shall be included in rate cases filed pursuant to section 367.081, Florida Statutes.

(4) Unless otherwise justified, the margin reserve period for water source and treatment facilities and wastewater treatment and effluent disposal facilities will be 18 months. Unless otherwise justified, the margin reserve period for water transmission and distribution lines and the wastewater collection system will be 12

months. In determining whether another margin reserve period is justified, the Commission shall consider the rate of growth in the number of equivalent residential connections (ERCs); the time needed to meet the guidelines of the Department of Environmental Protection (DEP) for planning, designing, and constructing of plant expansion; and the technical and economic options available for sizing increments of plant expansion.

(5)(a) Margin reserve for water source and treatment facilities and wastewater treatment and effluent disposal facilities shall be calculated as follows:

$$\underline{EG \times MP \times D = MR}$$

where:

EG = Equivalent Annual Growth in ERCs determined pursuant to (c) or (d) below

MP = Margin Reserve Period determined pursuant to subsection (4)

D = Demand per ERC (customer demand applied in the used and useful calculations for water and wastewater facilities)

MR = Margin reserve expressed in gallons per day (GPD)

(b) Margin reserve for water transmission and distribution lines and the wastewater collection system shall be calculated as follows:

$$\underline{EG \times MP = MR}$$

where:

EG = Equivalent Annual Growth in ERCs
determined pursuant to (c) or (d)
below

MP = Margin Reserve Period determined
pursuant to subsection (4)

MR = Margin reserve expressed in ERCs

(c) The equivalent annual growth in ERCs (EG) is measured in terms of the projected annual growth and shall be calculated in Schedules F-9 and F-10 of Form PSC/WAW 19 for Class A utilities and Form PSC/WAW 20 for Class B utilities, incorporated by reference in Rule 25-30.437.

(d) The utility shall also submit a linear regression analysis using average ERCs for the last 5 years. The utility may submit other information that will affect growth in ERCs.

(6) As part of its application filed pursuant to Rule 25-30.437, the utility shall submit its most recent wastewater capacity analysis report, if any, filed with DEP.

(7) Contributions-in-aid-of-construction (CIAC) shall be imputed when a margin reserve is authorized. The amount of imputed CIAC shall be determined based on the number of ERCs included in the margin reserve period and the projected CIAC that will be collected from those ERCs. However, the imputed CIAC shall not exceed the rate base component associated with margin reserve.

Specific Authority 367.121, FS.

Law Implemented 367.081, FS.

History-New.

NAME OF PERSON ORIGINATING PROPOSED RULE: Charles H. Hill

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULE:
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: July 16, 1996.

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (904) 413-6770 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

M E M O R A N D U M

June 26, 1996

TO: DIVISION OF APPEALS (Moore)
FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (Harlow) *JH PD GMD*
SUBJECT: ECONOMIC IMPACT STATEMENT FOR DOCKET NO. WS-960258; PROPOSED REVISIONS TO RULE 25-30.431, FAC, MARGIN RESERVE

SUMMARY OF THE RULE

The proposed rule reflects the 1991 Commission standard operating procedure (SOP number 2406, effective 3/29/91) and recent Commission file and suspend rate case rulings regarding margin reserve and the imputation of contributions-in-aid-of-construction (CIAC). The proposed rule defines margin reserve for water and wastewater utilities as the amount of plant capacity needed to meet the expected demand resulting from customer growth. The rule specifies that, upon the utility's request and when justified, a provision for margin reserve shall be included in the used and useful determination in file and suspend rate case proceedings. The rule also indicates the data submission requirements for margin reserve, the specific calculation of margin reserve, and the additional information which will be considered by the Commission in margin reserve determinations. Unless otherwise justified, the rule sets the margin reserve period as follows: eighteen months for water source and treatment facilities, eighteen months for wastewater treatment and effluent disposal facilities, twelve months for water transmission and distribution facilities, and twelve months for wastewater transmission and collection facilities. If margin reserve is authorized, a corresponding provision for the imputation of CIAC is prescribed. However, CIAC imputation is limited to the rate base component associated with margin reserve.

DIRECT COSTS TO THE AGENCY AND OTHER STATE OR LOCAL GOVERNMENT ENTITIES

No direct costs to the Commission or other state or local government entities are expected to result from adoption of the proposed rule. However, the

adoption of a rule regarding margin reserve and CIAC imputation may reduce the Commission staff effort required to prepare for and attend hearings on these issues in file and suspend rate case proceedings.

COSTS AND BENEFITS TO THOSE PARTIES DIRECTLY AFFECTED BY THE RULE

In order to determine the costs and benefits to those parties directly affected by the proposed rule, both the 1991 Commission SOP on margin reserve and recent case history were reviewed. Little material impact is expected because the proposed rule reflects the Commission SOP and recent Commission file and suspend rate case rulings regarding margin reserve and imputation of CIAC.

A review of the file and suspend rate cases completed from 1993 through 1995 revealed that in a slight majority of the cases, the Commission determined that utility plant was 100 percent used and useful. Therefore, margin reserve was not a relevant issue in those cases. It appears that in the majority of the cases for which plant was less than 100 percent used and useful (and margin reserve was requested by the utility), the Commission has adhered to an eighteen-month guideline for measuring a margin reserve period for plant other than lines. While all of these decisions did not follow the margin reserve period guidelines, the rule allows for deviation from the proposed reserve period if justified by a Commission review of other pertinent information. All but one of the file and suspend rate cases in the past three years included imputation of CIAC if margin reserve was approved.

The proposed rule requires two additional data filings that are not currently in the SOP for those utilities requesting margin reserve; however, the cost impact on the utility is expected to be minimal. The rule requires utilities to submit their most recent wastewater capacity analysis report to the Commission. This should result in minimal costs for the utilities because the report is currently prepared for the Department of Environmental Protection. Utilities are also expected to provide a linear regression of annual equivalent residential connections (ERCs) for the last five years. Although this calculation is currently performed by Commission staff, it is relatively straight forward and can be performed with a hand calculator.

The adoption of a Commission rule regarding margin reserve is expected to benefit ratepayers, the utilities, and Commission staff by reducing file and suspend rate case expenses. Rule adoption should help reduce rate case expenses by limiting testimony on margin reserve to special circumstances.

REASONABLE ALTERNATIVE METHODS

One alternative to the adoption of the proposed rule is to retain the non-rule practice. However, staff believes that without the adoption of a rule, both Commission and utility staff time and effort will continue to be expended on re-hearing these issues during file and suspend rate case proceedings. Staff believes a rule should be adopted concerning margin reserve and the imputation of CIAC in order to reduce uncertainty regarding the Commission treatment of used and useful plant capacity. Both ratepayers and utilities would benefit from the reduced uncertainty and rate case expense reductions which should result from rule adoption. While numerous alternatives to the specifics of the proposed rule are possible, staff believes that the alternative guidelines which deviate from current Commission policy will be most efficiently presented at hearing.

IMPACT ON SMALL BUSINESSES

Little direct impact on small businesses is foreseen, as the adoption of the proposed rule would impose minimal additional expected costs on water and wastewater utilities in general, including those which qualify as a small business as defined in Section 288.703(1), Florida Statutes (1995). Water and wastewater companies may experience a reduction in rate case expenses if the rule is adopted. No material impact is expected for other small businesses, as the rule is not expected to significantly affect the price of water and wastewater services.

IMPACT ON COMPETITION

No material impact on competition is expected because the proposed rule essentially adopts current Commission policy and imposes minimal additional expected costs. In addition, utilities may experience some rate case expense reductions if the rule is adopted.

IMPACT ON EMPLOYMENT

Minimal impact on employment is expected to result from the proposed rule. However, rule adoption may lead to a reduction in both Commission and utility staff effort required to prepare for and attend file and suspend rate case proceedings.

METHODOLOGY

Several meetings were held with other Commission staff to discuss: (1) the current Commission policy on margin reserve and the imputation of CIAC, (2) the 1991 Commission SOP on margin reserve, (3) recent Commission rate case rulings regarding margin reserve, and (4) the proposed rule. Portions of transcripts of Commission workshops and hearings on used and useful and margin reserve were also reviewed. Finally, the 1991 Commission margin reserve SOP and the Commission file and suspend rate case decisions from the last three years were analyzed for consistency with the proposed rule.

JGH:tf/e-margin.tnf

**STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE**

At issue in virtually every rate case determination of used and useful is whether to include a margin reserve to accommodate future growth. The Commission's current policy is to include, unless otherwise justified, an 18-month margin reserve for water source and treatment facilities and wastewater treatment and disposal facilities. This margin is usually offset by imputing the projected contributions-in-aid-of-construction (CIAC) during the margin reserve period. The policy should be codified in a rule.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.

STATEMENT OF IMPACT ON SMALL BUSINESS

Little direct impact on small businesses is foreseen, as the adoption of the proposed rule would impose minimal additional expected costs on water and wastewater utilities in general, including those which qualify as a small business as defined in section 288.703(1), Florida Statutes (1995). Water and wastewater companies may experience a reduction in rate case expenses if the rule is adopted. No material impact is expected for other small businesses, as the rule is not expected to significantly affect the price of water and wastewater services.

**STATEMENT THAT THE AGENCY HAS CHOSEN THE REGULATORY ALTERNATIVE
THAT IMPOSES THE LOWEST NET COST ALTERNATIVE TO SOCIETY**

The Commission has chosen the regulatory alternative that imposes the lowest net cost to society.