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March 5, 1997

Ms. Blanca S. Bayo, Director  
Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center  
Room 110  
Tallahassee, Florida 32399-0850

**HAND DELIVERY**

Re: Docket No. 960258-WS

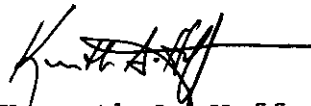
Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of Florida Water Services Corporation ("Florida Water") are the original and fifteen copies of the Comments of Florida Water Services Corporation to Staff's Final Recommended Version of Rule 25-30.431, Florida Administrative Code.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely,

  
Kenneth A. Hoffman

ACK \_\_\_\_\_  
AFA   1    
APP   1    
CAF \_\_\_\_\_  
CMU \_\_\_\_\_ KAH/rl  
CTR \_\_\_\_\_  
EAG \_\_\_\_\_ cc: All Parties of Record  
LEG \_\_\_\_\_ Trib.3  
LIN   5    
OPC \_\_\_\_\_  
RCH   1    
SEC   1    
WAS \_\_\_\_\_  
OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE  
~~02417~~ MAR-5 97  
FPSC-RECORDS/REPORTING

FILED

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition to Adopt Rules	)	Docket No. 960258-WS
on Margin Reserve and Imputation	)	
of Contributions-In-Aid-Of-	)	
Construction on Margin Reserve	)	Date: March 5, 1997
Calculation, by Florida	)	
Waterworks Association	)	
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COMMENTS OF FLORIDA WATER SERVICES CORPORATION  
TO STAFF'S FINAL RECOMMENDED VERSION OF  
RULE 25-30.431, FLORIDA ADMINISTRATIVE CODE

Florida Water Services Corporation ("Florida Water"), formerly Southern States Utilities, Inc., hereby submits its comments to the Commission staff's final recommended version of proposed Rule 25-30.431, Florida Administrative Code, and states as follows:

1. Florida Water agrees with the comments the Florida Waterworks Association ("FWA") filed with the Commission by letter dated March 4, 1997.<sup>1</sup>

2. In accordance with § 120.54(3)(c), Florida Statutes (Supp. 1996), any change to a proposed rule, other than a technical change

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<sup>1</sup> Two points expressed in the above mentioned FWA comments requires clarification for Florida Water's position. Florida Water agrees with FWA that the language in staff's final recommended version of the rule is unclear as to the margin reserve period for water source, water treatment, wastewater treatment, and effluent disposal facilities. The referenced language creates a presumption of a five year margin reserve for these facilities. However, the five-year presumption is a rebuttable presumption, and if the presumption is rebutted, a margin reserve period of no less than three years is allowed. Florida Water agrees that the five-year presumption should not be a rebuttable presumption, but rather a conclusive one. Florida Water also recommends adoption of the Department of Environmental Protection's proposed rule language on reuse facilities.

DOCUMENT NUMBER-DATE

02417 MAR-56

FPSC-RECORDS/REPORTING

not affecting the substance of the rule, made after the final public hearing must be (a) supported by the rulemaking record, (b) made in response to written comments received on or before the public hearing, or (c) made in response to an objection of the Administrative Procedures Committee. A substantive change includes the deletion or withdrawal of all or a portion of a proposed rule.

3. The rulemaking record does not support the Commission staff's unexplained recommendation to delete/withdraw the proposed rule's allowance for a margin reserve on water distribution and transmission lines and wastewater collection lines.<sup>2</sup> Therefore, in accordance with § 120.54(3)(c), Florida Statutes (Supp. 1996), the Commission must adopt a rule addressing margin reserve for lines as supported by the rulemaking record. The FWA's proposed rule for lines is supported in the rulemaking record and, therefore, should be adopted by the Commission. The only other alternative adequately supported in the record is contained in the testimony and prefiled exhibits of Florida Water witness Mr. Hartman. (Hartman Prefiled Comments and Exhibits, Composite Exhibit No.1, prefiled Exhibit GCH-8). Mr. Hartman's testimony and exhibits support a margin reserve period for lines well in excess of the 12 months suggested in the initial proposed rule.

4. The Commission must adopt rules which pose the lower cost

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<sup>2</sup> Water and wastewater lines are indistinguishable from other water and wastewater plant components as to the need for a margin reserve. The rulemaking record is specifically devoid of any support to the contrary.

regulatory alternative for achieving a statutory objective. §§ 120.52(8)(g) and 120.54(d), Florida Statutes (Supp. 1996).<sup>3</sup> The lower cost regulatory alternative for achieving the statutory objectives of Chapter 367, as supported by the rulemaking record in this proceeding, is the FWA's proposed rule. Staff's recommended final version of the rule does not pose the lower cost regulatory alternative for any of the plant components at issue (even if staff's approach to estimating cost is correct) and is not supported in the rulemaking record as such.

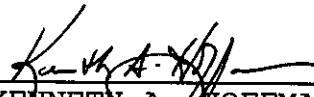
5. The rulemaking record overwhelmingly supports that the rule should make special provision for reuse facilities. The Commission should adopt the language on reuse facilities which was proposed in the prefiled comments of the Department of Environmental Protection ("DEP").

For the foregoing reasons, Florida Water Services Corporation supports the adoption of the Florida Waterworks Association's proposed rules, as amended, supports the adoption of the Florida Department of Environmental Protection's proposed rule on reuse, and, accordingly, requests that the Commission reject staff's final recommended version of the proposed rule.

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<sup>3</sup> Please refer to Florida Water's First Amended Petition for Administrative Determination of Invalidity of Proposed Rule filed with the Division of Administrative Hearings December 16, 1996, in consolidated cases numbers 96-3809RP and 96-3949RP.

Respectfully submitted,

  
\_\_\_\_\_  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was furnished by United States Mail to the following persons this 5th day of March, 1997:

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