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July 24, 1997

Division of Administrative Hearings
1230 Apalachee Parkway
Tallahassee, FL 32399-1550

HAND DELIVERY

Attn.: Marguerite Lockard

RE: Florida Waterworks Association v. Florida Public Service
Commission

Dear Ms. Lockard:

Enclosed are an original and one copy of corrected pages 25
and 40 of the Petition for Administrative Determination of
Invalidity of Proposed Rule filed in the above cause yesterday.
These correct typographical errors.

Please insert the corrected pages in the said Petition.

ACK _____ I apologize for the inconvenience.

AFA _____
APP _____ Please acknowledge receipt of the foregoing by stamping the
CAF _____ enclosed extra copy of this letter and returning same to my
attention. Thank you for your assistance.

CMU _____

CTR _____

EAG _____

LEG _____

LIN _____ WLS/l dv
OPC _____ Enclosure

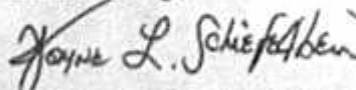
RCH _____ ee w/encl.:

SEC _____

WAS _____

OTH _____

Sincerely,



Wayne L. Schiefelbein

Christiana T. Moore, Esq. (Hand Delivery)
Kenneth A. Hoffman, Esq. (Hand Delivery)
Blanca S. Bayo (Hand Delivery)

DOCUMENT NUMBER-DATE

07509 JUL 24 97

FISC-RECORDS/REPORTING

upheld the PSC's "incipient policies" on margin reserve and imputation of CIAC as within the PSC's discretion.

51. We do not have the evidence of record in the Rolling Oaks case at hand. However, in the rulemaking proceedings before the PSC, there is overwhelming record support for recognition that margin reserve should be considered "currently in use," and which therefore should be given full weight in rate-making, without imputation of CIAC. The Proposed Rule purports to recognize that margin reserve is currently in use, by its definition of margin reserve as capacity "needed to preserve and protect the ability of utility facilities to serve existing and future customers in an economically feasible manner that will preclude a deterioration in quality of service and prevent adverse environmental and health effects." Proposed Rule 25-30.431(1) Further, the Proposed Rule deems margin reserve "an acknowledged component of the used and useful rate base determination...." Proposed Rule 25-30.431(3)

52. The FWA believes that the Rolling Oaks case was incorrectly decided by the court. In any event, circumstances have substantially changed over the decade following the PSC's decision in that rate case. The premise for the Court's decision was that margin reserve was "not currently in use." This premise is not valid and, therefore, the Court's conclusion is no longer valid. Florida has adopted a new state water policy and a far more complicated environmental permitting process, which have had a

utilities than for electric utilities, as illustrated below:

RESERVE CAPACITY

Water and Wastewater

Referred to as MARGIN RESERVE.

"Needed" to preserve and protect the ability of utility facilities to serve existing and future customers, but must be requested. (Proposed Rule 25-30.431(1), (3))

Expressed in terms of annual growth.

Must be requested by the utility, but then is restricted to a maximum of 18 months, unless "otherwise justified." (Proposed Rule 25-30.431 (3) & (4))

Electric

Referred to as RESERVE MARGIN.

"Required" in order to meet all reasonable demands for service. (Rule 25-6.035(1), Fla. Admin. Code)

Expressed in terms of a percentage of annual peak demand.

Minimum reserve (15% of peak demand) required by PSC (Rule 25-6.035, Fla. Admin. Code)

84. The PSC's disparate treatment of capacity reserves for water and wastewater utilities and electric utilities is evident in its rate orders. A typical rate order for a water and wastewater utility contains substantial discussion of why margin reserves should be limited to the maximum of 18 months even though greater reserves may be economically justified and will increase the ability to render service.¹⁸ A typical rate order for an electric utility is devoid of any discussion of reserve margins unless there is some event that might reduce reserves below the minimum during

¹⁸See, for example, Southern States Utilities, 96 FPSC 10:426-428 (October 30, 1996).