

STATE OF FLORIDA

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DIVISION OF APPEALS
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Public Service Commission

October 20, 1999

Mr. Carroll Webb
Joint Administrative Procedures
Committee
Room 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 is the notice of change, which will be published in
the FAW on October 29, 1999 and the statement of changes for the
proposed amendment of Rule 25-30.431.

We plan to file the rule for adoption on October 28, 1999.

Sincerely,

Christiana T. Moore
Associate General Counsel

AFA _____
APP _____ ADT431.CTM
CAF _____ Enclosure
CMU _____ cc: Division of Records & Reporting
CTR _____
EAG _____
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STATE RECORDS REPORTING

FLORIDA PUBLIC SERVICE COMMISSION

DIVISION OF APPEALS

DOCKET NO. 960258-WS

RULE NO: RULE TITLE:

25-30.431 Used and Useful Consideration Margin Reserve

NOTICE OF CHANGE

Notice is hereby given that the following change have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Volume 23, No. 27, July 3, 1997, issue of the Florida Administrative Weekly:

25-30.431 Used and Useful Consideration Margin Reserve

~~(1) "Margin reserve" is defined as the amount of plant 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.~~

~~(2) "Margin reserve period" is defined as the time period needed to install the next economically feasible increment of plant capacity.~~

~~(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.~~ In determining whether property is needed to serve customers more than five full years after the end of the test period as provided by section 367.081(2)(a)2.c., Florida Statutes (1999) ~~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 construction of plant expansion; and the technical and economic options available for sizing increments of plant expansion.

~~(2)(5)(a)~~ Property needed to serve customers after the end of the test year ~~Margin reserve for water source and treatment facilities and wastewater treatment and effluent disposal facilities shall be calculated as follows:~~

$$EG \times \text{PTMP} \times D = \text{PNMR}$$

where:

EG = Equivalent Annual Growth in ERCs determined pursuant to (b) or (c) below, not to exceed 5 percent per year

PTMP = Post Test Year Margin Reserve Period determined pursuant to section 367.081(2)(a)2.b. and c., Florida Statutes (1999) ~~subsection (4)~~

D = Unit of measurement utilized Demand per ERC
~~(customer demand applied in the used and useful~~

calculations for plant components ~~water and wastewater facilities~~)

PNMR = Property needed Margin reserve expressed in the units of measurement utilized gallons per day
(GPD)

(b) 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.

(c) 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.

~~(3)(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 50 percent of 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, F.S.

Law Implemented: 367.081(2)(a)2.b.c., F.S.

History--New _____.

STATEMENT OF CHANGES

The changes to this rule are the result of amendments made by the Legislature in 1999 to the law that is implemented by the rule. Section 367.081, Florida Statutes, was amended to provide for a five-year "margin reserve period" for utility property unless there is clear and convincing evidence that a greater period is justified, and to prohibit the imputation of contributions-in-aid-of-construction (CIAC). These provisions necessitate the following changes to the rule to delete the inconsistent or unnecessary language.

25-30.431(1)--Margin Reserve Definition

The rule as approved by the Commission in 1997 defines "margin reserve" as "the amount of plant 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." The term "margin reserve" is not used in the statute, nor does the statute state the Legislature's findings or its purpose in including the facilities needed five years in the future in used and useful rate base. The statute requires at least a five-year "margin" regardless of economic feasibility. Since the "margin reserve" added to rate base is now independent from any finding as to the next economically feasible plant addition, the definition is inconsistent with the new statute and is also unnecessary.

25-30.431(2)--Margin Reserve Period Definition

"Margin reserve period" was defined as "the time period needed to install the next economically feasible increment of plant capacity." Since the Legislature has now provided that such property that is needed for at least five years in the future is used and useful, regardless of whether it is the time needed to install the next economically feasible increment, the definition is inconsistent with the statute and is deleted.

25-30.431(3)--Margin Reserve as Component of Used and Useful

This section of the rule provided that margin reserve is an acknowledged component of the used and useful rate base that when requested and justified shall be included in rate cases. It is deleted as unnecessary because the statute now provides that what is known as "margin reserve" shall be considered used and useful.

25-30.431(4)--Determination of Margin Reserve Period

The new section 367.081(2)(a)2.b. and 2.c., Florida Statutes (1999), provides that property that is needed to serve customers 5 years after the end of the test year shall be considered used and useful. A longer period than five years will be considered used and useful "only to the extent that the utility presents clear and convincing evidence to justify such consideration." Ch. 99-319, § 1, at 2, Laws of Fla. (§367.081(2)(a)2.c.) The rule is changed to reflect the statutory five-year allowance, but to keep the provision about the factors to be considered in determining whether a greater period is justified.

The reference to water source and treatment facilities and wastewater treatment and effluent disposal facilities is deleted because the law appears to apply to all "utility property".

25-30.431(5)--Margin Reserve Calculation

Several minor changes are made to reflect the statutory cap on the growth rate used to determine the property in the margin reserve at "5 percent per year"; that the "margin reserve" period is set forth in the statute; that it is not limited to the plant components that were listed; and that the units of measurement may be other than equivalent residential connections (ERCs) for some plant components.

25-30.431(7)--Imputation of CIAC

The new law specifically prohibits the imputation of "prospective future" CIAC against the utility's investment in used and useful property. Since subsection (7) of the rule provides for imputation when a margin reserve is authorized, it is deleted.

1 25-30.431 Used and Useful Consideration Margin Reserve

2 (1) ~~"Margin reserve" is defined as the amount of plant~~
3 ~~capacity needed to preserve and protect the ability of utility~~
4 ~~facilities to serve existing and future customers in an~~
5 ~~economically feasible manner that will preclude a deterioration in~~
6 ~~quality of service and prevent adverse environmental and health~~
7 ~~effects.~~

8 (2) ~~"Margin reserve period" is defined as the time period~~
9 ~~needed to install the next economically feasible increment of plant~~
10 ~~capacity.~~

11 (3) ~~Margin reserve is an acknowledged component of the used~~
12 ~~and useful rate base determination that when requested and~~
13 ~~justified shall be included in rate cases filed pursuant to section~~
14 ~~367.081, Florida Statutes.~~

15 (4) ~~Unless otherwise justified, the margin reserve period for~~
16 ~~water source and treatment facilities and wastewater treatment and~~
17 ~~effluent disposal facilities will be 18 months. In determining~~
18 ~~whether property is needed to serve customers more than five full~~
19 ~~years after the end of the test period as provided by section~~
20 ~~367.081(2)(a)2.c., Florida Statutes (1999) another margin reserve~~
21 ~~period is justified, the Commission shall consider the rate of~~
22 ~~growth in the number of equivalent residential connections (ERCs);~~
23 ~~the time needed to meet the guidelines of the Department of~~
24 ~~Environmental Protection (DEP) for planning, designing, and~~
25 ~~construction of plant expansion; and the technical and economic~~

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

1 options available for sizing increments of plant expansion.

2 ~~(2)(5)~~ (a) Property needed to serve customers after the end of
3 the test year ~~Margin reserve for water source and treatment~~
4 ~~facilities and wastewater treatment and effluent disposal~~
5 ~~facilities~~ shall be calculated as follows:

$$6 \quad EG \times \underline{PTMP} \times D = \underline{PNMR}$$

7 where:

8 EG = Equivalent Annual Growth in ERCs determined
9 pursuant to (b) or (c) below, not to exceed 5
10 percent per year

11 PTMP = Post Test Year Margin Reserve Period determined
12 pursuant to section 367.081(2)(a)2.b. and c.,
13 Florida Statutes (1999) subsection (4)

14 UD = Unit of measurement utilized Demand per ERC
15 ~~(customer demand applied in the used and useful~~
16 ~~calculations for plant components water and~~
17 ~~wastewater facilities)~~

18 PNMR = Property needed Margin reserve expressed in the
19 units of measurement utilized gallons per day
20 (GPD)

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

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

4 (3)~~(6)~~ As part of its application filed pursuant to Rule
5 25-30.437, the utility shall submit its most recent wastewater
6 capacity analysis report, if any, filed with DEP.

7 ~~(7) Contributions in aid of construction (CIAC) shall be~~
8 ~~imputed when a margin reserve is authorized. The amount of~~
9 ~~imputed CIAC shall be determined based on 50 percent of the~~
10 ~~number of ERCs included in the margin reserve period and the~~
11 ~~projected CIAC that will be collected from those ERCs. However,~~
12 ~~the imputed CIAC shall not exceed the rate base component~~
13 ~~associated with margin reserve.~~

14 Specific Authority: 367.121, F.S.

15 Law Implemented: 367.081(2)(a)2.b.c., F.S.

16 History--New _____.

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