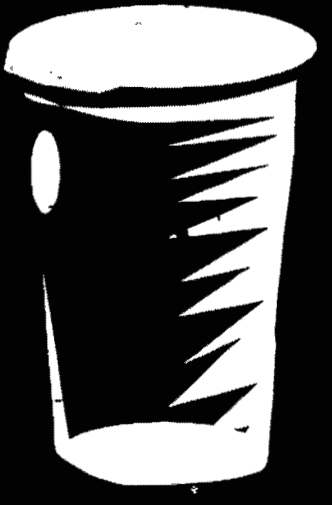
FLORIDA PUBLIC SERVICE COMMISSION

VIABILITY

Impact of the Department of Environmental Protection's Capacity Development Program on the Public Service Commission and the Water and Wastewater Industry



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I. INTRODUCTION

The viability of water and wastewater systems is critical to the protection of public health and the conservation of Florida's water resources. The ability of utilities to provide service that meets all quality requirements and in sufficient quantities is being challenged by the implementation of more stringent regulations by the Florida Department of Environmental Protection (DEP), the Water Management Districts (WMDs), and the U. S. Environmental Protection Agency (EPA). Even utilities that have the necessary financial, technical, and operational capability to meet current demands may encounter difficulty in the future unless they anticipate and plan for the future needs of their customers and water quality regulations.[1]

In 1996, the U.S. Congress addressed the issue of water and wastewater utility viability by amending the Federal Safe Drinking Water Act (SDWA). Consequently, the DEP developed a Capacity Development Program. This paper will discuss the definition of viability, the DEP's Capacity Development Program, and how the DEP program impacts the Florida Public Service Commission's (PSC) responsibilities regarding ensuring viability of PSC regulated water utilities.

II. DEFINING VIABILITY

A. Viable, Gray-zone, and Non Viable Systems

The American Water Works Association (AWWA) discusses water system viability in terms of three categories: viable systems, gray-zone systems, and non viable systems. Utilities are categorized according to their capacity (i.e., organizational, technical, and economic ability) to provide safe, affordable drinking water over the long term.[2]

Viable systems: A viable utility has been defined as one that is self-sustaining, and has the commitment and the financial and technical ability to meet the regulatory standards on a long-term basis.[3]

Gray-zone systems: The AWWA states that gray-zone systems may or may not have the ability to meet present and future requirements in a reliable manner. They cannot be classified as viable or non

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[1] *Building Water System Viability*, A White Paper from the American Water Works Association, June 28,1995.

[2] *Ibid.*

[3] *"Water Issues: Questions & Answers with Commissioner Diane Kiesling"*, *From the PSC Agenda*, March 1995, p.3.

viable because their lack of comprehensive water supply planning does not allow adequate assessment.[4]

Non viable systems: The AWWA further states that non viable systems clearly do not have the ability to meet present or future needs without significant, externally facilitated restructuring of their approach to providing water service. They present a danger to public health, and their limitations erode public confidence in public water supplies.[5]

B. What Causes Systems to Become Non Viable?

The AWWA states that non viable water systems are the result of a variety of conditions: population settlement patterns, development constraints, demographic and economic changes, management limitations, inadequate maintenance and modernization, and failure to recover the full cost of service.[6] The water and wastewater industry is a rising cost industry. In Florida, these characteristics manifest themselves in ways that are especially problematic to small utilities, such as the inability to attract capital, absence of economies of scale, regulatory lag, and rate base regulation.

Population settlement patterns and development constraints encouraged the formation of tens of thousands of small water systems in the United States. Thousands of non viable systems are located in rural areas that have suffered demographic and economic changes. For example, the conditions are not the same in communities where the mining company has closed and the railroad no longer stops as when the water system was built 100 years ago.[7]

Thousands more of the non viable systems are located in suburban areas, established by developers during the sub urbanization boom of the last four decades. Often the weak management by homeowner associations has resulted in inadequate maintenance and modernization, leaving deteriorating systems. Finally, the failure of a system of any size to recover the full cost of service threatens its long-term viability because routine maintenance and replacement needs are often ignored. Although non viability can occur with any size utility, the AWWA states that the small systems serving fewer than 500 people account for most of the SDWA violations.[8]

Rising Cost Industry

While changes in technology have resulted in lower costs for some industries, the opposite is true for the water and wastewater industry. Water and wastewater industry costs are dramatically increasing due to the following factors: more stringent federal and state standards, increased demand

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[4] *Building Water System Viability*, A White Paper from the American Water Works Association, June 28,1995.

[5] Ibid.

[6] Ibid.

[7] Ibid.

[8] Ibid.

due to growth, replacement of existing infrastructure, and historical underpricing of water. The EPA, the Florida DEP, and the five WMDs are all imposing new and expensive standards for water treatment, and wastewater treatment and disposal. In some cases, utilities must make expensive treatment plant upgrades in order to meet the new requirements.

For example, concerns over protecting potable water resources and waterways have resulted in increased efforts to utilize treated wastewater effluent as a water resource. Reuse of reclaimed water in areas such as irrigation and electric facility cooling towers can significantly reduce withdrawals from potable water resources. However, the effluent must be treated to a higher standard if it will be disposed of in public areas. Converting an existing wastewater treatment plant to this method of effluent disposal often significantly increases the cost of treatment.

Factors Influencing Florida Utilities

Florida's growth has in the past and continues to require additional water and wastewater infrastructure. The PSC's policy is that growth should pay for itself. This is accomplished through such mechanisms as service availability charges assessed to new customers and the recognition of used and useful adjustments to prevent current customers from paying for plant that will be used to serve future customers. However, realistically, new customers cannot pay for all the new infrastructure.

Many of Florida's water and wastewater utilities are approaching 20 to 30 years of age and the utility infrastructure in many of them is in serious decline. Aging systems require greater maintenance and rehabilitation, and replacement costs greatly exceed the original costs of the facilities. This is especially problematic for utilities with a small and static customer base, as the entire cost of plant upgrades must be borne by the existing customer base.

Also, many developer-owned utilities set rates below costs to stimulate real estate sales in the early stages of the development. The lack of revenues often leads to postponement of needed maintenance and repairs. By the time the need for repairs reaches a critical state and the utility seeks rate relief, the necessary rate increase can be quite significant causing customer rate shock. It is common for rate increases in these instances to exceed 100%. Also, in cases in which the service provided by the utility has become substandard, customers often object to the rate increase and distrust the utility.

Although no utility is immune to viability concerns, the issue of non viability typically applies to small utilities. Currently, the PSC regulates 1300 separate water and wastewater systems operated by 213 utilities.[9] Of those, 151 are Class C utilities, which account for nearly 71% of the total utilities regulated by this Commission.[10] Many of those serve fewer than 100 connections, making needed rate increases especially burdensome to the customers.

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[9] *1999 Class of Service Report*, Division of Economic Regulation, PSC.

[10] Class C utilities are water or wastewater systems having less than $200,000 in annual revenues.

In Florida, the viability of small utilities has been affected by several additional factors, such as the inability to attract capital, absence of economies of scale, regulatory lag, and rate base regulation as a regulatory mechanism. It is very difficult for small utilities to generate sufficient funds internally to finance significant capital expenditures. Significant may amount to a relatively minor $8,000 hydro-pneumatic tank, or may mean investment in excess of $100,000 for advanced wastewater treatment to meet environmental standards. Even a seemingly small expenditure in the $8,000 range can represent 50% or more of a small company's total revenue. Larger utilities are more likely to have internally generated funds, established lines of credit, or other capital sources. Small utilities generally must borrow funds, but often have difficulty finding a lending institution that will give them a loan. This becomes especially difficult if the utility systems are already in disrepair. If the utility is not developer related, it may not be able to secure funds short of putting up personal property as collateral. This is a far too common occurrence in Florida.[11]

The problem is further complicated by the PSC's prescribed depreciation schedules (conceived with larger utilities in mind) that force recovery to be spread out as much as 30 years in some instances while lending institutions expect much shorter pay back periods. The rate setting process does not accurately reflect the needs of smaller utilities.[12]

Another factor specific to small utilities is dis-economies of scale. The water and the wastewater industry is characterized by economies of scale. Simply put, the more water produced or wastewater treated, the cheaper becomes the per unit cost. This is particularly true for wastewater systems. Thus, smaller utilities will usually have a higher per unit cost than larger utilities. This circumstance creates upward pressure on rates for customers of smaller utilities. Any expenditure that does not substantially increase the capacity of the utility simply puts more pressure on the rates.[13]

Additionally, the viability of small utilities is impacted by regulatory factors such as regulatory lag and rate base regulation. The depth of analysis required by rate base regulation takes time. As a result, many small utilities do not have the patience, foresight or time to pursue rate relief. When they do seek relief, it is often after they have reached a point of financial crisis. Under that financial burden the utility may not withstand the six to nine months it may take to implement new rates. In Florida, the legislature and the PSC have established the staff-assisted rate case (SARC) procedure to assist small utilities in obtaining rate relief. However, even with the SARC procedure, the depth of analysis necessary to produce rate relief prevents expeditious results.[14]

The process of establishing the level of investment in the utility (referred to as rate base), operating and maintenance expenses, capital structure, and the subsequent revenue requirement upon which rates can be set require a substantial investment in human capital. The source of that investment is either in-house expertise, outside consultant expertise, or regulatory staff expertise.

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[11] *Regulatory Problems Posed By Small Water and Wastewater Utilities*, PSC Report, October 1996.

[12] Ibid.

[13] Ibid.

[14] Ibid.

Most small utilities do not have this expertise nor can they afford consultants. Fortunately, in Florida through the SARC process the PSC makes regulatory expertise available. This serves to reduce the cost to the utility, but in no way reduces the level of analysis performed. It simply shifts the burden to the Commission. Ironically, efforts to make regulation easier for smaller utilities have often had the effect of increasing the costs to this Commission.[15]

The nature of rate base or utility investment regulation works against smaller utilities as well. Many utilities are outgrowths of someone's desire to develop property for sale. The utility is not conceived as a separate long term entity. Thus, various tax strategies or service connection strategies may have eroded what would have been utility investment for rate making purposes. As a result, there are a number of smaller utilities that have no rate base, and thus, the rates do not include depreciation or a return on investment. This is essentially a break-even posture with no financial cushion provided to the utility. From a cash flow perspective, the utility is in a hand-to-mouth posture, unable to generate necessary funds internally through depreciation and earnings, or qualify for loans to handle extraordinary expenses such as line breaks or pump failures.[16]

For small utilities with little rate base, rate of return rate setting fails to provide adequate cash flow to service debt or put profit back into the utility. The operating ratio alternative currently available for Florida's small utilities can provide needed additional revenues for these utilities.

C. The Importance of System Viability

Although there are several reasons why water and wastewater system viability is important, the most important is public safety. Water systems are facing a more complex environment and more stringent regulations for which a high level of performance must be maintained. As a result, some water systems that were once viable are now struggling to sustain their ability to provide an adequate quantity and quality of water to their customers. Systems lacking the financial, technical, and operational capability to meet current demands may have difficulty meeting the future demands of their customers and of increasing water quality standards. Utilities that do not anticipate and prepare for future needs may be overwhelmed by changing conditions and unable to meet safe drinking water standards.[17] Viability of utility systems is vital to ensuring public safety.

Further, in terms of public benefits and costs, it is much less expensive to encourage viability than to cope with non viable systems. Ways to restructure non viable systems include such actions as contracting the operation and maintenance of the system, merger or consolidation, satellite management, purchased water interconnection, formation of water districts or authorities, privatization, and public acquisition. However, it is difficult, expensive, and legally complicated to externally impose restructuring of non viable systems, even in states where such authority, programs,

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[15] Ibid.

[16] Ibid.

[17] *Building Water System Viability*, A White Paper from the American Water Works Association, June 28,1995.

and resources already exist. Some legal and programmatic changes may be needed to allow new institutional approaches.[18]

It should be noted that the Florida PSC has made some efforts to address viability for small water and wastewater systems by modifying some of its procedures. For example, by providing staff assistance in rate proceedings and by providing index and pass-through rate applications the PSC has made rate relief more accessible to small utilities, thus addressing one aspect of the viability problem. The Commission has also addressed the deficiencies in rate base regulation by use of the previously mentioned operating ratio methodology in setting revenue requirement. In addition, the PSC has incorporated into its certification process for new utilities, a review of financial, managerial and technical abilities of the owner/owners seeking certification. This process will be further discussed as it relates to the DEP Capacity Development Program in Section III of this report.

Finally, the PSC is particularly concerned about water and wastewater system viability because such a large percentage of the utilities it regulates are small systems, which are especially vulnerable to the viability concerns discussed above. As stated previously, in 1996, the U.S. Congress addressed the issue of water and wastewater utility viability by amending the Federal Safe Drinking Water Act. Consequently, the Florida DEP developed a Capacity Development Program. That program will be discussed in Section III of this paper.

III. FLORIDA'S CAPACITY DEVELOPMENT PROGRAM

As part of the 1996 amendments to the Federal Safe Drinking Water Act (SDWA), the U.S. Congress mandated that the states establish programs to ensure drinking water systems are able to acquire and maintain adequate technical, managerial and financial capabilities to enable them to consistently provide safe drinking water. The SDWA required the states to develop and implement these programs through two major provisions. The first provision was to ensure that all newly created water systems have adequate technical, managerial and financial capacity. The second provision of the program was to develop a plan to assist existing water systems in obtaining adequate technical, managerial and financial capacity.

The Florida Department of Environmental Protection (DEP) has been primarily responsible for development of both stages of the program. The PSC provided technical assistance to the DEP in the areas of financial and managerial assessment in development of the program. DEP staff advises that the U.S. Environmental Protection Agency has approved the state's Capacity Development Program. Florida's program is described as follows:

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[18] Ibid.

A. Florida's Capacity Development Program for New Systems

The State's program requires new non transient, non community water systems (NTNCWS) and new community water systems (CWS) to undergo a capacity assessment by the DEP. Systems, subject to program requirements must demonstrate acceptable capacity in order to receive a construction permit and/or clearance for use.

The EPA provides a definition of "new system." For the purposes of capacity development, a new CWS or NTNCWS is defined based upon the following criteria:

1. is constructed on or after October 1, 1999, or
2. commences operation on or after October 1, 1999, or
3. was a non-public water system which added infrastructure on or after October 1, 1999, to become an NTNCWS or CWS. Non-public water systems which add additional users and thereby become NTNCWSs or CWSs are not considered new systems for the purposes of capacity development.

A summary of the requirements of Florida's New Systems Capacity Development Program follows:

- New CWSs and NTNCWSs are subject to an assessment of their capacity as part of the permitting process. Technical capacity is assessed through the construction permitting process. Financial and managerial capacity is assessed using the Capacity Development Financial and Managerial Operation Plan, DEP Form 62-555.900(20) which is attached (Attachment 1).[19]

- CWSs and NTNCWSs which commence operations on or after October 1, 1999, must submit an updated Capacity Development Financial and Managerial Operation Plan, DEP Form 62-555.900(20), to the DEP three years after the commencement of operations.

- Systems regulated by the Florida Public Service Commission (PSC) are not required to complete Items 5 and 6 (financial information) of DEP Form 62-555.900(20), because the PSC requires proposed new utilities to provide detailed financial information to establish initial rates and to assure funding in the initial years of operation. Systems in counties under PSC jurisdiction but not regulated by the PSC are required to complete the entire DEP Form 62-555.900(20).

Since October 1, 1999, the DEP has evaluated 80 projects to determine applicability of the new systems capacity development requirements and assessed the capacity of 20 of those projects.

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[19] As a matter of timing, new utilities are required by the DEP to obtain a certificate of authorization from the PSC prior to making application to the DEP for a permit to construct and operate.

In those cases, the systems demonstrated acceptable capacity and were granted construction permits and clearance. Additionally, the Department determined that new systems capacity development requirements do not apply to 33 of the 80 systems. The Department will evaluate the capacity of the remaining 27 projects plus other applicable projects on an ongoing basis.

B. Florida's Capacity Development Program for Existing Systems

Florida's Capacity Development Program for existing systems is also under the CD Technical Assistance Program. The key elements of the program are identifying utilities which may need assistance, offering assistance to those utilities and providing assistance to those utilities which accept help. Systems are identified through system self-referral, by DEP employees, the Florida Association for Community Action (FACA)[20], the Florida Rural Water Association (FRWA)[21], or through referrals from other agencies. To aid in identifying systems, the DEP has asked its District and County offices to complete referral forms if a utility meets one or more of the criteria listed below. Also, the DEP periodically asks its District and County offices to advise the Tallahassee office of systems that they believe need technical assistance. There are no specific problems a system must have in order to self-refer or be referred. Identified systems will include, but not be limited to, systems with the following indicator problems:

1. Systems in significant noncompliance for primary contaminants; and
2. Systems whose sanitary surveys or compliance histories show one or more of the following problems:
   A. History of acute health risk violations,
   B. History of Maximum Contaminant Level (MCL) violations of primary contaminants (non acute),
   C. History of MCL violations of secondary contaminants,
   D. System has gone into receivership,
   E. Inspection reveals essential facilities, such as storage tank, unusable or expected to become unusable in less than six months,
   F. Problems with disinfection/filtration,
   G. Problems with pressure below compliance in distribution system,
   H. Inadequate backflow prevention,
   I. Staff not properly trained or unavailable, or
   J. Other problem (inspector provides description).

So far the DEP and others have identified more than 150 systems that may need technical assistance.

Systems which have been referred are then prioritized in order of potential threat to public health. The DEP offers these systems the appropriate technical assistance in order of priority

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[20] FACA administers the Southeast Rural Community Assistance Project which provides free technical assistance to help rural communities obtain quality drinking water and adequate wastewater disposal.

[21] FRWA is a non-profit Association which provides technical assistance and loans equipment to water and wastewater systems.

until available resources are exhausted. If systems choose to participate or accept the DEP's offer, they receive assistance with the technical, financial, and/or managerial aspects of a water system from the FRWA. In the earlier stages of the program assistance was also available from FACA. However, FACA is no longer involved in the program. Examples of technical assistance that have been and may be provided include, but are not limited to:

- rate studies,
- sampling and monitoring training.
- operations and maintenance troubleshooting,
- development of groundwater protection plans,
- leak detection,
- line location, business operations evaluation,
- valve location and
- treatment troubleshooting.

FRWA contacts systems assigned to it by the DEP and often meets with system personnel for on-site evaluations. FRWA is in the process of contacting all systems to which it was assigned.

A key tool in assisting small systems in achieving acceptable capacity is the Drinking Water State Revolving Fund Program (DWSRF). The program provides low-interest loans and grant funding to eligible entities using a priority system. Small investor-owned utilities are eligible, and have received funding under the program. Approximately $25 Million per year of funding is available, and at least 15% is reserved for systems serving less than 10,000 persons. Under these criteria all of our Class C, and many of our Class B utilities would be eligible.

IV. IMPACT OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION'S CAPACITY DEVELOPMENT PROGRAM ON THE PSC

As discussed previously, the issue of utility system viability covers a broad range of topics. However, the focus of this paper is the DEP's Capacity Development Program and whether it can be used to help ensure viability of Florida's PSC regulated utilities. As discussed in Section III, the DEP's program addresses both new and existing systems. The following discussion addresses the different approaches for each category.

A. New Systems

In order to determine if the DEP's Capacity Development Program can be useful to new utilities certificated by the PSC, it will be helpful to first discuss the PSC's current procedures regarding certificating new utilities. The DEP has jurisdiction over permitting and construction of new utilities in all counties. However, pursuant to Section 367.171, Florida Statutes, the PSC has jurisdiction only over privately-owned utilities and only in those counties which have elected to turn over jurisdiction to the Commission. Further, Section 367.022, Florida Statutes, provides a list of conditions under which a utility may be exempt from PSC regulation. Consequently, even in counties in which the PSC has jurisdiction, a new utility may be constructed, which is exempt from PSC regulation.

New utilities that are subject to PSC regulation are required to obtain a certificate of authorization to provide water and/or wastewater service. Additionally, as part of the permitting process, the DEP requires that PSC regulated utilities obtain a certificate of authorization from the PSC prior to being issued a permit by the DEP for the construction of a new water or wastewater facility. Also, Florida's water management districts require new utilities to obtain a PSC certificate prior to being issued a consumptive-use permit or well-drilling permit. Because a new utility must obtain approval from several agencies prior to beginning construction, the PSC has implemented a short review time frame for new certificate applications. Specifically, the Commission will either grant or deny an application for a certificate of authorization within 90 days after the official filing date of the completed application, unless an objection is filed pursuant to ss. 120.569 and 120.57, or the application will be deemed granted.

In order to determine if construction of the new utility is in the public interest, the PSC reviews many items, including the applicant's financial ability to construct and operate the utility. Specifically, Rule 25-30.033(1)(e), Florida Administrative Code, requires from the applicant "a statement showing the financial and technical ability of the applicant to provide service." As part of the review process, PSC staff analyzes the proposed costs to construct and operate the new utility, along with the applicant's financial statements, to determine if the applicant has the financial ability to not only construct the utility but to keep it running during the early start-up years. Utility facilities are built to provide a certain level of capacity and that capacity will be gradually utilized based upon annual customer growth. As a result, utilities typically lose money during the early years of operation. In order to ensure viability of the newly constructed utility, it is vital that the utility owners have the financial ability to ensure continued operation of the utility during the start-up phase of the utility.

As discussed in Section III, the DEP's Capacity Development Program requires similar information from applicants proposing to construct new utilities. However, because the PSC already had procedures in place to review the financial ability of applicants under its jurisdiction prior to development of the Capacity Development Program, the DEP chose not to require those utilities to submit financial information to them as well. Specifically, DEP Rule 62-555.525(3)(d)(2), Florida Administrative Code, states in part:

> Systems that will be regulated by the Florida Public Service Commission shall demonstrate acceptable financial and managerial capacity using Form 62-555.900(20), Capacity Development Financial and Managerial Operation Plan, except that such systems need not complete items 5 and 6 of the form (financial capacity). Systems in counties under the jurisdiction of the Florida Public Service Commission, but not subject to its regulations, are not exempt from completing items 5 and 6.

Consequently, due to the DEP's efforts not to duplicate requirements placed upon utilities, the DEP's Capacity Development Program has no effect on the PSC's current procedures for certificating new utilities.

B. Existing Systems

The Commission's practice regarding system viability has generally been reactive rather than proactive.[22] It has been Commission practice not to initiate any action that could result in a rate increase for ratepayers. If a utility files an application for a rate increase, the PSC will conduct an in-depth review of that utility's financial condition and grant rate relief if deemed appropriate. However, absent a request from the utility, the PSC will, generally, not take steps to improve the financial condition of the utility. Although this approach has worked in the past, it is clearly not the best approach to continue in the future to ensure the viability of the utilities regulated by this Commission.

It is important for the Commission to determine to what extent the DEP's Capacity Development Program can be used as a tool by the PSC to improve system viability of utilities under its jurisdiction? One option the Commission could consider to better answer this question is to implement a pilot program. As discussed in Section III, the DEP has already identified more than 150 systems that may need technical assistance. A number of those systems are currently regulated by the PSC. Therefore, at a minimum, the pilot program should have a goal of assisting in improving the condition of the PSC regulated utilities that have been identified by the DEP as needing technical assistance. However, the program could also be expanded for the purpose of obtaining data to be used in future viability assessment. For example, a pilot program could include the following activities:

1. **Goal One**: Provide Assistance to DEP Identified Utilities

   A. Accompany the DEP contractors on their on-site visits to the PSC regulated utilities to learn more about the condition of those utilities and areas for which the PSC can offer assistance. In addition to, or in lieu of an on-site visit, the Commission can ask the DEP to provide a written report to the Commission describing the condition of the utility and areas in which the PSC can offer assistance;

   B. Obtain information from DEP regarding those utilities' status relating to eligibility and priority to receive funding and assistance from other sources;

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[22] It should be noted that one proactive approach the Commission has implemented is an outreach program called the Water and Wastewater Utility Educational Workshop. Attendance at this annual workshop was once limited to the small Class C utilities, however, participation has recently been extended to Class B utilities as well. Its purpose is to promote small system viability by educating the utilities on regulatory requirements and procedures, including annual report preparation and available programs and procedures for obtaining rate increases. While the utilities that participated in this program have given it high marks, a majority of utilities that could benefit from the program have not elected to participate.

C. If those utilities will not receive funding or will receive only limited funding, the PSC should decide whether rate relief is needed, and if so, encourage those utilities to seek rate relief.

2. **Goal Two**: Gather Data for Future Viability Assessment

A. For DEP identified utilities, review the PSC's historical data, such as the annual report data base, past rate cases, number of years between rate cases, use of price index adjustments, and customer complaints;

B. Compare the historical data for these utilities for similarities to develop a list of "flags" to indicate current or potential viability concerns for other utilities;

C. Do an in-house review of annual reports, rate case data, etc. in order to compare other utilities to the "flag" list created in B. above to identify other systems that may be in need of assistance. The Commission could then refer these utilities to the DEP for assistance.

Regarding the DEP identified systems, if working with DEP to assist these utilities proves successful in improving the viability of those systems, this element could be added to the Memorandum of Understanding between the DEP and PSC. Essentially, the PSC could request that it be notified whenever the DEP identifies a troubled system that is regulated by the PSC. The Commission could continue to work with DEP to improve systems as they are identified.

Although it is important to address systems which are already in trouble, the preferable situation would be to identify and address problems before they become critical. That is the point of the second goal of the pilot program. A hypothetical example will illustrate how it might work. Suppose it is determined that if a utility has experienced negative earnings for at least five years, never applied for price index adjustments, and waited at least 10 years between rate cases, these are indicators of a potential non viable utility. Those factors could then be used as a checklist when reviewing data for other PSC regulated utilities to determine if they might also face potential non viability in the future. Additional "flags" might include measures like net income dollars and percent, customer growth and plant investment (ability to finance plant investment as needed), DEP violations, etc. After identifying a utility that may need assistance, the PSC can take proactive steps to improve their viability such as notifying DEP that this utility is in need of assistance, and encouraging the utility to seek rate relief if needed. By studying the utilities that are already having difficulties, the "flag" list can be refined to catch potential problems when they first begin rather than many years down the road when correcting those problems becomes difficult and costly.

As stated earlier, the purpose of this paper is to discuss the impact of the DEP's Capacity development Program on PSC responsibilities regarding ensuring viability of water utilities. As such, it does not specifically address wastewater utility viability and does not provide a comprehensive analysis of what can be done to improve utility viability. However, it is believed that what is learned through the pilot program can be applied to wastewater utilities and used to refine the Commission's approaches to dealing with potentially non viable systems.

V. CONCLUSION

Viability of utility systems is vital to ensuring public safety. It is much less expensive to screen new systems for long term viability and assist existing systems in attaining viability than to cope with non viable systems. Although the DEP's Capacity Development Program is not the only answer to solving viability problems, it certainly does offer promise for significantly improving system viability.

Prior to the Capacity Development Program, the PSC had procedures in place to review the financial ability of applicants for new systems under its jurisdiction. Therefore, the Capacity Development Program will have no effect on the PSC's current procedures for certificating new systems. However, the DEP's Capacity Development Program may prove useful in providing assistance to existing PSC regulated systems that, with moderate preventive intervention, may be able to sustain viability. The pilot program suggested in this paper may be the best option to test the program's usefulness in the PSC's efforts to improve existing system viability.

However, for many utilities the major problem is funding. Without adequate cash flow or access to additional funding, maintenance and operations will deteriorate. As noted, for some utilities, the Capacity Development Program will provide only partial, if any, relief. To address this problem, the Commission could implement additional procedures to improve the viability of troubled utilities.[23] For example, the Commission could supplement its existing annual report surveillance procedures to identify and contact utilities with negative earnings. These utilities would be advised that staff assistance is available for a rate proceeding, or at a minimum be urged to take advantage of pass throughs and indexes. The public interest is served when utilities have the capacity to provide safe and reliable service. While in the past the Commission has not encouraged utilities to seek rate relief, it may be time to consider a more proactive approach.

The Commission could also consider expanding the application of the operating ratio methodology or consider other innovative rate making approaches for small utilities for which rate base regulation limits cash flow. In some cases, rates based on expenses, not level of investment, should lead to quality of service improvements and may make the utility a better acquisition target for a larger utility. These issues will be discussed at an upcoming Commission workshop on alternate rate setting scheduled for August of this year.

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[23] For a fuller discussion of additional procedures for improving system viability, see PSC staff paper, *Abandonments and Receiverships in the Florida Water & Wastewater Industry.*

VI. ATTACHMENTS

Attachment 1: Capacity Development Financial and Managerial Operation Plan

Attachment 2: CD Technical Assistance Program Tracking Spreadsheet

Capacity Development Financial and Managerial Operation Plan

For New Community and Non-transient Non-community Water Systems

GENERAL INSTRUCTIONS: This form shall be completed and submitted by persons proposing to construct community or non-transient non-community water systems after October 1, 1999 or proposing to have such system(s) commence operations after October 1, 1999 or subject to the requirements of 62-555.357. Refer to the New Water System Capacity Development Planning Manual (Rule 62-555.335) for instructions and recommended formats to use in completing this form. The Manual includes criteria used by the Department to evaluate the information obtained using this form and a description of how the Department plans to use the information submitted. At the end of this form is a certification by which a system's authorized representative attests to the accuracy of the reported information. Attach all plans or other attachments required by this form, and use additional sheets as necessary.

1) Project or Water System Name: _____ 2) Identification Number (PWS-ID): _____

3) Population Served or to be Served: _____ 4) Number of connections _____

5) Projected or actual income sources and funds: Attach a plan showing your projected or actual income and funds for the five-year planning period starting with the commencement of operations. Include the following two types of information only: 1) nature of all income sources and funds (e.g. revenues from sales of water to customers, interest income, funding from the City, receipt of a loan or grant, personal bank account) and 2) dollar amount to be provided by each income source or funds. Report all projected or actual amounts, but a description of each amount under 10% of the total projected or actual amount is not necessary. Show only income or funds pertaining to drinking water.

6) Projected or actual expenses: Attach a plan showing projected or actual expenses for the five-year planning period starting with the commencement of operations. Include the following two types of information only: 1) nature of expense (e.g. sampling, laboratory analytical, chlorine, salaries of water system employees, repayment of a loan, equipment purchases) and 2) dollar amount of expense. Report all projected or actual amounts, but a description of each amount under 10% of the total projected or actual amount is not necessary. Show only expenses pertaining to drinking water.

7) Management capacity: Attach a list of the following: employee titles, responsibilities, certifications, and whether the position is vacant or filled. Where a position is vacant, indicate the projected hiring date. Include the names, certification numbers, and classes of the operators. Indicate the person(s) who are responsible for acting on behalf of the system to spend money, in case of emergency, or to make other decisions on behalf of the system. Provide telephone numbers and addresses for these responsible parties. Show only employee or management information pertaining to drinking water.

8) Planning documents: According to classification and size, systems may be required to have written plans as described in Department rules or in the New Water System Capacity Development Planning Manual. Check the plans below which are required for your system and which you have: If your system is not required to have the plan shown, check N/A.

Plan	✓		✓		✓		Plan	✓		✓		✓	
Risk Management	☐	Yes	☐	No	☐	NA	Auxiliary Power	☐	Yes	☐	No	☐	NA
TTHM Monitoring	☐	Yes	☐	No	☐	NA	Bacteriological Monitoring	☐	Yes	☐	No	☐	NA
Operations Manual	☐	Yes	☐	No	☐	NA	Cross Connection Control	☐	Yes	☐	No	☐	NA
Sampling for Lead and Copper Tap Samples and Water Quality Parameters								☐	Yes	☐	No	☐	NA

9) Alternate means of providing water service: Attach a description of the alternatives considered (including inter-connections with existing water systems) and the reasons for the approach selected to provide the planned water service. This description shall include the technical, managerial, financial, and operational reasons for the selected approach.

CERTIFICATION: I, the undersigned authorized representative of the applicant, hereby certify that all information contained in this form and attachments is true, correct, and complete to the best of my knowledge and belief. I also certify that I have been duly authorized to file the application and to provide these assurances and that, for the five-year planning period starting with the end of the system's first fiscal year of actual or planned operations, the system expects to collect or already has sufficient funds to equal or exceed its forecasted expenses, enabling the system to deliver water meeting regulatory standards.

SIGNATURE OF AUTHORIZED REPRESENTATIVE _____

NAME (please print) _____

TITLE _____ Date _____

Address, City, State, Zip, Phone _____

Capacity Development Technical Assistance Program Status Report

FACA NS means Florida Association for Community Action Needs Survey.

PWS Name	PWS ID	Referred to FRWA	Referred to FACA	Declined to Participate/ Completed/Not Appropriate	Reason declined/completed/N/A
JEA	0			Y	tech. asst. not needed
Cedar Grove	1030142		Y		
Springfield	1030148	Y		Y	1/8/00 E. Willard recommends removal - system is applying for needed resources through SRF.
Mexico Beach	1030467		Y		
Fox Run Utilities	1030817	Y		Y	Gary W. said they may sell to a larger co. FRWA has met stated goals.
Blountstown	1070685			Y	Declined to complete FACA NS
J&N Sports World	1074017	Y		Y	1/19/01 Gary W. said foot valve problem corrected. Back on original well.
Bratt-Davisville	1170085		Y		
Central Water Works, Inc.	1170126	Y		Y	1/8/01 E. Willard recommends removal - system is applying for needed resources through SRF.
Gonzalez Utilities	1170302	Y		Y	1/19 Gary W. said FRWA often visits for maintenance help w/ lime/soda and has done rate reviews.
Century	1170613		Y	Y	1/8/01 E. Willard recommends removal - system is applying for needed resources through SRF.
Alligator Point Water Res. District	1190013	Y		Y	1/8/01 E. Willard recommends removal - system is applying for needed resources through SRF.
Carrabelle	1190118			Y	Declined to complete FACA NS. They have someone in-house who writes grant appl, finds funding
Apalachicola	1190150			Y	Declined to complete FACA NS. Tied in with E. Pt. Water & Sewer. An engrg. co. in Apalachicola takes care of finding funding.
East Point Water and Sewer District	1190236	Y		Y	1/19/01 Gary W. said RD funding has been committed.
St. George Island Water System	1190789	Y		Y	1/8/01 E. Willard recommends removal - system is applying for needed resources through SRF.
Chattahoochee	1200134		Y		
Rentz's Mobile Home Park	1200459	Y			
Quincy, City of W/S	1200551	Y		Y	E. Willard recommends removal based on FRWA info, system history, non-returned FACA survey. Same mgmt of Quincy as of Greensboro.

Water System Name	PWSID	Participated in FRWA	Received FACA	Declined to Participate/ Complete (N/A if appropriate)	Reason declined/Comments/N/A
Greensboro	1200687			Y	Declined to complete FACA NS. Recd $500,000 CDBG to replace water tower. Need licensed operator.
Gretna	1200688	Y			
Suwannee Mart #323	1204057	Y			
Port St. Joe	1230545		Y		
Wewahitchka	1230734			Y	Declined to complete FACA NS
Bonifay	1300083			Y	Declined to fillout FACA NS
Teen Challenge	1302006	Y			
Cambellton	1320111			Y	Declined to fill out FACA NS
Cottondale	1320143			Y	Declined to complete FACA NS
Graceville	1320145		Y		
Greenwood	1320311		Y		
Town of Malone	1320440	Y			
Marianna, City of	1320449	Y		Y	Declined to complete self assessment
Sneads	1320689			Y	Declined to complete FACA NS
Monticello	1330478			Y	Declined to complete FACA NS
Lloyd Water Authority	1330748	Y		Y	1/8/01 E. Willard recommends removal - system is applying for needed resources through SRF.
Talquin Water Co., Inc., System #1	1370403	Y			
Spencer Subdivision	1370622	Y			
Bristol	1390087		Y		
O'Henry's Pub	1394002	Y			
Fort Walton Beach, City of	1460144			Y	Large system
Crestview, City of, Water Dept.	1460182	Y		Y	Water audit, rate review done.
Milton	1570146		Y		
Jay	1570384		Y		
Midway	1570470			Y	Declined to complete FACA needs survey
Point Baker Water System, Inc.	1570540	Y		Y	1/8/01 E. Willard recommends removal - system is applying for needed resources through SRF.
Sopchoppy	1650612			Y	Did not complete FACA needs survey/self evaluation process
St. Marks	1650630		Y	Y	Consecutive system
DeFuniak Springs	1660196		Y		
Freeport	1660290		Y		
Simpler's Fish Camp	1664092	Y		Y	System declined assistance (1/01 FRWA report)

Water System Name	PWSID	Referred to FRWA	Referred to FACA	Declined to Participate/ Completed/Not Appropriate	Reason declined/completed/NA
Chipley	1670135			Y	Declined to complete FACA NS
Alachua	2010017	Y		Y	S. King confirmed system in compliance, already seeking assistance through SRF funding
Archer	2010199		Y		
High Springs	2010201		Y		
Newberry	2010207		Y		
Waldo	2010212		Y		
Hawthorne	2010477		Y		
Lake Alto Estates	2010625	Y		Y	S. King advised removal from list because system already seeking assistance through SRF program.
Micanopy	2010749			Y	Declined to complete FACA NS
Macclenny	2020204		Y		
N.E. Fla. State Hosp.	2020815	Y			
Brooker	2040113			Y	No self evaluation completed
Starke, City of	2040211		Y		
Hampton	2040456		Y		
Lawtey	2040648			Y	Declined to complete FACA NS
Green Cove Springs	2100437	Y	Y		
St. Johns Landing	2100709	Y			
Orange Park Grid	2100741	Y		Y	1/3/01 S. King advises to remove this system. It is part of Clay County Utilities.
Azalea Park Subdivision	2120047	Y			
Lake City WTP	2120630	Y		Y	1/3/01 S. King recommends removal; system has resources to attack problems.
Shady Oaks Subdivision	2121023	Y			
Fort White	2124399		Y	Y	S. King recommended removal from CD list.
Cross City	2150243		Y		
Horseshoe Beach WTP	2150512	Y			
Town of Suwannee	2151140	Y		Y	Spiractor problem fixed
Neptune Beach	2160206	Y			
Ocean City Utilities	2180002	Y		Y	System declined assistance. Did not want to receive a survey.
Bunnell	2180134			Y	Declined to complete FACA NS
Trenton Water Department	2211188	Y			
Jasper	2240570			Y	Declined to complete FACA needs survey

Water System Name	PWSID	Requested Participation in PWA	Requested Participation in FACA	Declined to Participate / Completed / Not Appropriate	Explanation if Declined or Inactive
Jennings	2240579			Y	Declined to complete FACA NS
White Springs	2241264	Y		Y	System seeking resources through SRF program
Mayo	2341181			Y	Declined to complete FACA needs survey
Cedar Key	2380178			Y	Declined to complete FACA NS
Chiefland	2380189		Y		
Hideaway	2380485	Y			
Otter Creek	2380854			Y	Declined to complete FACA NS
Bronson	2381178			Y	Declined to complete FACA NS
Springside Utilities	2381409	Y			
Madison	2400205		Y		
Greenville	2400440		Y		
Lee	2401296		Y		
Callahan	2450146			Y	Declined to complete FACA NS
Town of Hilliard	2451179	Y			
Yulee Mini Mall	2454362	Y		Y	11/00 system had its own consulting engineer and declined TA at that time.
Crescent City	2540239			Y	Declined to complete FACA NS
Port Buena Vista	2540911	Y			
Interlachen	2541180			Y	Declined to complete FACA NS
Paradise View - Putnam Co.	2544275	Y			
Welaka	2544392			Y	Declined to complete FACA NS
Hastings	2550476		Y		
Jack Wright Island	2554370	Y		Y	Inactive - not qualified as a PWS according to 12/8/99 PWS database
Branford	2610109			Y	Declined to complete FACA NS
Live Oak	2610203			Y	Declined to complete FACA NS
Wayne Frier Trailer Park Live Oak	2611239	Y			
Perry	2620208		Y		
Keaton Beach	2620603		Y		
Steinhatchee Water Association	2621102	Y		Y	S. King recommends 1/3/01 it be removed from active list. System seeking assistance through SRF process.
Lake Butler	2630202			Y	Declined to complete FACA NS
South Brevard Water Co-op	3051311	Y		Y	1/3/01 B. Ansag recommends removal because system in compliance.
Fellsmere	3314280		Y	Y	1/3/01 B. Ansag recommends removal because system in compliance.
Groveland	3350476		Y		
Howey in the Hills	3350573	Y		Y	1/3/01 B. Ansag recommends removal because system in compliance.

Water System Name	PWSID	Referred to FRWA?	Referred to FACA?	Declined to Participate/ Completed/Not Appropriate?	Reason declined/completed/NA?
South Umatilla Water Company	3351221	Y			
Tavares	3351333		Y		
Umatilla	3351402		Y		
Pennbrooke Fairways	3354653	Y		Y	1/3/01 B. Ansag recommends removal because system in compliance.
Belleview	3420074		Y		
Residential Water Systems, Inc.	3424625	Y		Y	1/3/01 B. Ansag recommends removal because system in compliance.
Eatonville	3480327	Y	Y		
Hyatt Orlando Hotel	3490656	Y			
ILE Utilities	3530854	Y		Y	FRWA recommendation 1/19/01
New River Ranch	3531517	Y			
Sanford, City of	3590205	Y		Y	FRWA assessment, VPH checked database
City of Deland	3640286	Y		Y	FRWA reported successful technical assistance.
Port Orange, City of	3641044	Y		Y	FRWA assessment, VPH checked database
Lake Helen Water Department	3641550		Y		
Deerfield Beach, City of	4060254	Y		Y	Phong Nguyen 1/4/01: in compliance and not in need of assistance
Pembroke Park/City of Hollywood	4060642		Y	Y	Phong Nguyen 1/4/01: in compliance and not in need of assistance
Lauderhill, City of	4060787	Y		Y	Phong Nguyen 1/4/01: in compliance and not in need of assistance
Florida City	4130255			Y	Declined to complete FACA NS
MDWASA - Main System	4130871			Y	Large system
Opa Locka, City of	4131001	Y		Y	Note: purchased groundwater system
North Miami Beach	4131618			Y	Large system
Hobe Sound Bible College	4430621	Y			
Palm Circle Cottages and MHP	4431050	Y		Y	1/4/01 M. Owens recommended it be taken off the list
St. Lucie Mobile Village	4431379	Y		Y	1/19/01 Gary Williams said they no longer need financial assistance.
St. Lucie Settlement	4431380	Y			
Towering Pines	4431472	Y			
Hobe Grant Apartments	4431691	Y			
J&S Fish Camp	4431870	Y			
T & M Ranch	4434407	Y		Y	1/4/01 M. Owens recommends it be taken off the list.
Okeechobee	4470996			Y	Declined to complete FACA NS
Blue Cypress Golf & RV Resort	4474453	Y		Y	1/19/01 Gary Williams recommended it be entered on the inactive list.
Belle Glade Waterworks	4500105	Y		Y	1/19/01 Gary Williams recommended that FRWA not be involved.
Highland Beach Water Plant	4500609	Y		Y	1/4/01 Asir Canyas said it is in good shape and does not need assistance.
Pahokee, City of	4501023	Y	Y		

Water System Name	PWSID	Referred to FRWA	Referred to FAC/T	Declined to Participate/ Completed/Not Appropriate	Reason declined/completed/NA
Faith Farms Ministries	4501039	Y			
In the Pines	4501264	Y			
West Palm Beach, City of	4501559			Y	
South Bay WTP	4501911	Y	Y		
Ft. Pierce Cottages	4560503	Y		Y	M. Owens said system has not been cooperating with Department efforts to assist with improving system
Orchid Acres Mobile Home Park	4561005	Y		Y	2/23/01 Michele Owens said to remove it from our list. The owners have filed for bankruptcy, and I believe we have filed a complaint in circuit court. There's no point in trying to work with the current owners; maybe wait for a new owner.
Oleander Business Pk.	4565015	Y			
Lee Cypress Co-op	5110058	Y			
Moore Haven	5220192		Y		
Kissimmee River Fishing Resort	5280155	Y		Y	1/3/01 Mark Johnson recommends this system be removed from active list because rather unresponsive to ongoing S. Dist. efforts to help/work with them. *System declined to participate*
Trails End Fishing Resort	5280291	Y		Y	1/3/01 Mark Johnson said system looks good with new well and new tank.
Oak Park Mobile Home Village	5360204	Y			
Manna Christian/Saldivar	5360242	Y			
Gulf Coast Center	5360275	Y			
Useppa Island	5360299	Y			
Cape Coral, City of	5360325	Y		Y	FRWA assessment, VPH checked database. 2/1/01 Jerry Ma recommends removal from list - no capacity deficiencies.
Chassahowitzka	6000000		Y		
1774 Water Cooperative, Inc.	6084076	Y			
Crystal River	6090317		Y		
Inverness Water Department	6090861	Y			
Wauchula	6250329		Y		
Zolfo Springs, City of	6250332	Y	Y		
Bowling Green, City of	6252022		Y		
Brooksville	6272180		Y		
Deep South BBQ	6277085	Y			

Water System Name	PWSID	Eligible for FRWA	Eligible for FACA	Declined to Participate/Not Completed/Not Approved	Reason declined or ineligible
First Union National Bank	6284081	Y		Y	FRWA assessment, VPH check database, Mark Johnson recommendation
Farm Store #2754	6284116	Y		Y	System inactive (PWS database 12/14/00) 1/3/01 M. Johnson confirmed it's out of business.
Davenport MHP	6291213	Y			
Sizemore RMH	6295143	Y			
Inglis	6382056			Y	Declined to complete FACA NS
Yankeetown	6382116	Y		Y	1/19/01 Gary Williams recommended removal from active list.
Palmetto	6410322			Y	Declined to complete FACA NS. Consecutive system.
Dunnellon	6424073			Y	Declined to complete FACA NS
Aloha Gardens Utilities	6510050				
Dade City	6510424		Y		
Hickory Hill - Pasco Co. Utils	6510760	Y		Y	1/19/01 Gary Williams recommended removal from active list - Pasco County Utils.
Shady Oaks Mobile Home Park	6511615	Y			
Sunnyside MHP	6511760	Y			
Seven Springs	6512214	Y			
A & W MHP	6514377	Y			
Zephyr Mobile Park	6514845	Y			
Tall Pines RV of Pasco County	6514884	Y			
Oldsmar Water System	6521417	Y		Y	Consecutive system. Wayne Wyatt: system not in need of assistance.
South Gate Home Owners, Inc.	6521673	Y		Y	1/4/01 Wayne Wyatt: system not in need of assistance.
Southern Comfort MHP	6521680	Y		Y	1/4/01 Wayne Wyatt: system not in need of assistance.
Boulevard Estates	6522310	Y		Y	1/4/01 Wayne Wyatt: system not in need of assistance.
G & H MHP	6530091	Y		Y	1/10/01 Gene Jeffers recommends removal from list based on need for assistance
Christmas Tree TP	6530261	Y		Y	1/10/01 Gene Jeffers recommends removal from list based on need for assistance. New owner.
Lake Alfred, City of	6530321	Y		Y	1/10/01 Gene Jeffers recommends removal; system already seeking assistance through SRF process
Davenport, City of	6530431	Y		Y	1/10/01 Gene Jeffers recommends removal from list; already seeking assistance from SRF.
Frostproof	6530627		Y		
Lake Hamilton, Town of	6530977		Y		
Chapman's MH and RV Park	6531222	Y		Y	FRWA assessment, VPH checked database

Water System Name	PWSID	Solicited by FRWA	Solicited by FACA	Declined to Participate/ Completed/Not Appropriate	Reason declined or not solicited/N/A
Sheppard Mobile Home Park	6532223	Y		Y	1/10/01 Gene Jeffers recommended removal from list. System was sold.
Saint City	6532501	Y		Y	1/19/01 Gary Williams recommended this system be placed on the inactive list.
Tice Trailer Park	6532708	Y		Y	1/10/01 Gene Jeffers recommends removal from list based on need for assistance
Citrus Woods	6532949	Y			
Skyview Waters	6532950	Y			
Baywood Duplexes	6534553	Y		Y	1/10/01 Gene Jeffers recommends removal from list based on need for assistance
Sarasota, City of	6580326			Y	Large system
Englewood	6580531	Y		Y	System declined assistance
Venice, City of	6581901	Y		Y	System declined to participate
Webster	6600330		Y		
Coleman	6602178		Y		