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August 14, 1996

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

**HAND DELIVERY**

Re: Florida Waterworks Association v.  
Florida Public Service Commission

960258-WIS

To Whom it May Concern:

Enclosed on behalf of Florida Waterworks Association are an original and five copies of the following:

1. Petition for Administrative Determination of Invalidity of Proposed Rules; and
2. Motion for Abatement.

Please open a docket for consideration of this Petition.

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

Sincerely,

*Wayne L. Schiefelbein*

Wayne L. Schiefelbein

WLS/ldv  
Enclosures

cc:w/encl.:

Blanca S. Bayo, Director  
Division of Records & Reporting  
Matthew J. Feil, Esq.  
Southern States Utilities, Inc.  
Charles H. Hill, Director  
Division of Water & Wastewater  
Christiana Moore, Esquire  
Division of Appeals  
David E. Smith, Esq., Director  
Division of Appeals

DOCUMENT NUMBER-DATE

08549 AUG 14 96

FRSC RECORDS/REPORTING

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA WATERWORKS ASSOCIATION,

Petitioner,

v.

DOAH Case No. \_\_\_\_\_  
Filed: August \_\_\_\_\_, 1996

FLORIDA PUBLIC SERVICE  
COMMISSION,

Respondent.

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**PETITION FOR ADMINISTRATIVE DETERMINATION  
OF INVALIDITY OF PROPOSED RULE**

The Petitioner, the Florida Waterworks Association (FWA), by and through its undersigned counsel, and pursuant to Section 120.54(4), Florida Statutes, hereby seeks an administrative determination of the invalidity of proposed rule 25-30.431, Florida Administrative Code, as proposed by the Florida Public Service Commission (PSC). In support of this Petition, the FWA states:

(1) For the purposes of this proceeding, the address and telephone number of the Petitioner, the FWA, should be considered that of its undersigned counsel.

(2) The affected agency is the PSC at the address of 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

(3) The FWA is comprised of investor-owned water and/or wastewater utility companies in the State of Florida, and is the Florida Chapter of the National Association of Water Companies, Inc. The FWA exists to assist its members with regulatory, technical and operational matters. A substantial number of the members of the FWA are water and wastewater utilities regulated by

the PSC, and are subject to its rules and regulations, including the proposed rule. As such, the FWA is substantially affected by the proposed rule 25-30.431.

(4) The proposed rule was noticed in the Florida Administrative Weekly on August 2, 1996, at Volume 22, Number 31, in Docket No. 960258-WS. The text of the proposed rule is attached hereto. The proposed rule would codify the PSC's non-rule policy on applicable rate-making treatment in rate case proceedings for setting a margin reserve and the imputation of contributions-in-aid-of-construction (CIAC) on the margin reserve.

(5) The proposed rule defines the term margin reserve as "the amount of plant capacity needed to meet the expected demand due to customer growth" and declares that margin reserve is "an acknowledged component of the used and useful rate base determination." Margin reserve period is defined as the "time period needed to install the next economically feasible increment of plant capacity that will preclude a determination in the quality of service." Presumptively valid margin reserve periods are prescribed, "unless otherwise justified." In determining whether another margin reserve period is justified, the proposed rule provides that the PSC shall "consider" the rate of customer growth; the time needed to meet the guidelines of the Department of Environmental Protection (DEP) for planning, design, and construction of plant expansion; and the technical and economic options available for sizing increments of plant expansion.

The proposed rule further mandates the imputation of

contributions-in-aid-of-construction (CIAC) when a margin reserve is authorized. A projection of future customers' payments of service availability charges during the margin reserved period is imputed or used as an offset to the margin reserve component of rate base. The rule limits the amount of imputed CIAC to the amount of the margin reserve.

(6) Under Chapter 367 of the Florida Statutes, and the Florida and Federal Constitutions, a water and/or wastewater utility is entitled to recover in rates those expenses reasonably necessary to provide service to its customers, and to earn a fair rate of return on its "rate base," that is, the investment in plant used and useful in providing service. West Ohio Gas Co. v. Public Utilities Commission, 234 U.S. 63, 55 S. Ct. 316, 79 L. Ed. 761 (1935); City of Miami v. Florida Public Service Commission, 208 So. 2d 249 (Fla. 1968); Gulf Power Company v. Bevis, 289 So. 2d 401 (Fla. 1974); Sec. 367.081(2)(a), Fla. Stat.

(7) A water and/or wastewater utility subject to the proposed rule is required by statute to provide safe, efficient and sufficient service, not less safe, less efficient, or less sufficient than is consistent with the approved engineering design of the system and the reasonable and proper operation of the utility in the public interest. Sec. 367.111(2), Fla. Stat. This obligation to serve applies to both existing and future customers located within the utility's certificated service area. Sec. 367.111(1), Fla. Stat.

(8) To meet the statutory responsibility of "readiness to

serve," a water and wastewater utility must have sufficient capacity to meet the existing and changing demands of existing customers and the demands of potential customers within a reasonable time and in an economic manner. The investment in that readiness to serve capacity is properly recognized in rate setting as a margin reserve.

(9) Investment in "margin reserve" is investment in plant used and useful in providing service. The proposed rule would deprive affected public utilities of an opportunity to earn a fair rate of return on this investment for two reasons. First, the proposed rule provides for presumptively valid assumptions that significantly understate a reasonable margin reserve. If the margin reserve is understated, the amount of capacity recognized by the PSC will be insufficient for the utility to meet its "readiness to serve" obligations in a timely and economic manner. Second, by its imputation, or offset of contributions-in-aid-of-construction (CIAC) that might be paid over the margin reserve period, against the margin reserve, the amount of investment in margin reserve on which a utility is allowed to earn a return is dramatically reduced or even eliminated.

(10) A capacity reserve, to assure a utility's ability to provide reliable service and to meet statutory requirements, is a necessity long recognized by the PSC for water, wastewater and electric utilities. Although the purpose of the reserve is similar for these types of utilities, they have different names and are measured in different ways. The investment in capacity reserve for

water and wastewater utilities is called a "margin reserve" and has historically been expressed in terms of equivalent annual growth. The investment in capacity reserve for electric utilities is called a "reserve margin" and has historically been expressed as a percentage of annual peak load demand. However, either reserve can be expressed in terms of percentage of peak load demand or equivalent annual growth. And although the reserves have similar purposes, the PSC has historically given them inconsistent ratemaking treatment. With regard to electric utilities, the PSC views the reserve as a current requirement, sets a minimum and allows the reserve to be greater than the minimum if economically justified. With regard to water and wastewater utilities, the PSC views the reserve as capacity held for future customers, sets a maximum, and will not allow it to be greater even if economically justified.

(11) The proposed rule codifies this latter policy by defining margin reserve as "the amount of plant needed to meet the expected demand due to customer growth." The proposed rule ignores the benefits of margin reserve to existing customers, that is, the availability of capacity which ensures that future customers will not overload existing facilities and impact on the quality and safety of service provided. A utility should have in place sufficient capacity to prevent deterioration in reliability and quality of service, until the next economic increment can be placed in service. Many factors affect the length of time between capacity increments. The utility must take into consideration, in

addition to the time actually needed for construction, the FDEP planning and permitting process; the permitting and approval processes of local governments and water management districts; design, bidding and bid evaluation; and testing, inspection, certification and startup. Concerns for strict environmental protection at all levels of government has substantially increased the length of time between conception and completion of facility construction. Obtaining a consumptive use permit alone may well take four years. Meeting environmental and conservation concerns in a manner acceptable to permitting agencies often leads to several alternatives being designed and considered before being accepted, a process that can entail many months or even years. During the period from conception to completion, capacity must be available to provide service. And as this time increases, the capacity reserve requirement also increases. These factors are not given their due weight, under existing PSC policy or the proposed rule. In practice, after "consideration" of such factors, the PSC routinely disregards them and establishes margin reserves at the presumptively valid levels set forth in the proposed rule. As a result, the amount of plant in which a utility should economically invest to serve the public is either not being built or, when it is built, its cost is not being allowed to be recovered through rates.

(12) The definitions and measure of margin reserve for water and wastewater utilities to be included as used and useful under the proposed rule are inadequate to allow a utility to build plant in economic increments, unlike that which is allowed for electric

utilities. In its regulation of electric utilities, the PSC requires that a minimum 15% reserve margin be maintained. However, the actual margins maintained by and allowed for electric utilities are often greater as a result of long-run economic choices, and often these margins include capacity capable of serving the equivalent of five to 20 years' annual growth. This reflects well-established PSC policy in electric rate cases for including the cost of capacity and land in rate base even if those assets are not used in the near term, if they enhance reliability or contribute to long-term economies.

(13) The PSC encourages such economic choices by allowing electric utilities to recover the cost of service associated with these assets through the rates of existing customers, even though it is acknowledged that to some extent they will be used to serve future customers and possibly not for many years. Since electric utilities do not collect CIAC through service availability charges, as is common with water and wastewater utilities, imputation of CIAC against these assets is not an issue. Electric capacity costs are evaluated in terms of their prudence, without regard to the fact that these costs are recovered through current customers.

(14) The PSC's nonrule policy is to offset water and wastewater utilities' actual investment represented by margin reserve by imputing uncollected amounts of CIAC that might be collected in a period following a rate case test year equal in length to the margin reserve period. While the PSC has recognized that margin reserve is necessary for a utility to meet its



statutory obligations and that it properly is a part of used and useful plant, it nonetheless denies utilities the ability to earn on their investment in margin reserve by imputing uncollected CIAC as an offset to such investment. The net result of imputing CIAC is to dramatically reduce the amount of margin reserve on which a utility is allowed to earn a return. In some cases, the imputation of CIAC has entirely offset allowed margin reserve. This imputation policy ultimately serves to subvert the PSC's margin reserve policy and to confiscate the utilities' investment in plant used and useful in the public service.

(15) The imputation policy has been justified by the PSC purportedly on the grounds of "fairness," that, without imputation, future customers may be subsidized by current customers. The policy rests on the assumption that the amount of capacity represented by the margin reserve exists solely to serve future customers, that those future customers are near term, and that those customers, with absolute certainty, will appear, and will appear in the time frame of the margin reserve period. This oversimplified connection between margin reserve and future customers ignores the legitimate purposes of a margin reserve. Margin reserve provides a cushion such that a utility can be prepared to meet the anticipated peak load conditions of its existing customers, with a reasonable degree of reliability, even when unanticipated outages occur. Margin reserve provides a cushion such that a utility can be prepared to meet changing load conditions of its existing customers, over and above the peak

loads historically experienced, with a reasonable degree of reliability. Margin reserve includes capacity over and above that required for existing loads that may exist merely because the economic sizing and timing of plant expansion dictate that result. As a fallout, margin reserve provides capacity adequate to meet ongoing projected growth. This is true for water and wastewater utilities as it is true for electric utilities.

(16) The imputation policy assumes that there would be no margin if there were no growth. No such assumption regarding the relationship between reserve capacity and the ability to serve growth is made for electric utilities. Reserve capacity is necessary even without growth, for water and wastewater, and electric utilities. The imputation policy also assumes that CIAC is forthcoming from growth and, therefore, CIAC should be imputed. But if it is logical to assume that CIAC is forthcoming from growth and should be imputed, then it is just as logical to assume that revenues, expenses, additional investment requirements and any other factors associated with growth should also be imputed. But the PSC doesn't do this because, in fact, neither argument is logical. The basis for ratemaking is the test period with all revenues, expenses, investment and offsets to investment, including CIAC, matching. The imputation policy, based on an illogical mismatching of period investment with out-of-period contributions, denies a utility the ability to earn on its investment in margin reserve. The policy results in a subsidy to current customers by passing on to either the future

customer or to the stockholder, the cost of maintaining a reliable level of service. The imputation policy in fact thwarts margin reserve policy because by offsetting real investment in margin reserve by imputed CIAC, it sends a signal to keep margin reserve at a minimum in order to reduce the risk of an inadequate return, even if reliability is affected. This policy also ignores that during the margin reserve period, the utility is continuing to make further investments by planning and constructing facilities to serve additional new customers who will connect beyond the margin reserve period. By the time the first customer connects to the plant allowed in margin reserve and pays his service availability charges (CIAC), the utility must be able to provide service for yet another future customer.

(17) The PSC provides for an Allowance for Funds Prudently Invested (AFPI). The AFPI charge is described as "a mechanism which allows a utility to earn a fair rate of return on prudently constructed plant held for future use from the future customers to be served by that plant in the form of a charge paid by those customers." Rule 25-30.434(1), Fla. Admin. Code. While costs associated with prudently invested "used" plant are recovered through rates to current customers, the costs associated with prudently invested "non-used" plant may be recovered through an AFPI charge from future customers. However, an AFPI charge does not recover earnings lost on the portion of margin reserve offset by imputed CIAC. Margin reserve is a component of used and useful plant and no portion of its cost is recovered through an

AFPI charge. There is no opportunity to earn on the investment in margin reserve against which CIAC has been imputed, from either current or future customers. Those earnings are lost forever.

(18) The proposed rule is an invalid exercise of delegated legislative authority in that it enlarges, modifies, or contravenes the provisions of the law implemented; fails to establish adequate standards for agency decisions, or vests unbridled discretion in the PSC; and is arbitrary and capricious.

(19) The proposed rule violates the constitutional rights of affected water and wastewater utilities to due process, to just compensation for taking of property, and the right to possess and protect property.

(20) As compared to PSC rate regulation of electric utilities, the proposed rule is unfairly discriminatory and violates the right of affected utilities to equal protection of the law.

(21) The following material facts are in dispute in this proceeding:

(a) whether to satisfy its statutory responsibility of readiness to serve, a water and/or wastewater utility must have as margin reserve sufficient capacity to meet the existing and changing demands of existing customers and the demands of potential customers within a reasonable time and in an economic manner;

(b) whether the PSC must recognize the investment necessary

to comply with a water and/or wastewater utility's statutory responsibility of readiness to serve, as a part of used and useful plant;

(c) whether application of the proposed rule would understate a reasonable margin reserve;

(d) whether the imputation of CIAC as an offset to margin reserve would understate the investment in property used and useful in providing service and deny the utility an opportunity to earn a fair rate of return on such property;

(e) whether the proposed rule is unfairly discriminatory when compared to PSC policy for other PSC-regulated utilities;

(f) whether application of the proposed rule would likely cause affected utilities to size their facilities to reduce the risk of an inadequate return, disregarding economies of scale, with a net result, over the longer run, of a higher cost of service and, hence, higher rates, with reduced assurance of reliability and sufficiency of service.

(22) The FWA alleges that each of the disputed issues of material fact described in paragraph 21 are to be found in the affirmative, and that those facts demonstrate that the proposed rule is an invalid exercise of delegated legislative authority, and in violation of water and/or wastewater utilities' constitutional rights to due process, just compensation for taking of property to possess and protect property, and to equal protection of the law.

WHEREFORE, the Petitioner, the Florida Waterworks

Association, requests that

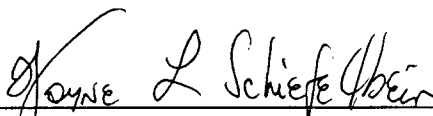
A) the Division of Administrative Hearings accept this Petition and assign a Hearing Officer to conduct a formal hearing in accordance with Section 120.57(1), Florida Statutes;

B) the assigned Hearing Officer enter a Final Order determining that proposed rule 25-30.431 constitutes an invalid exercise of delegated legislative authority and is therefore void;

C) the assigned Hearing Officer enter a Final Order finding that proposed rule 25-30.431 violates the constitutional rights of affected utilities to due process, to just compensation for taking of property, to possess and protect property, and to equal protection of the law; and

D) such other relief as may be deemed just and proper.

Respectfully submitted this 14<sup>th</sup> day of August, 1996.



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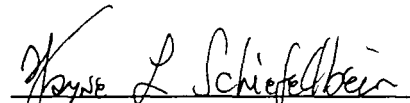
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(904) 877-7191

Attorneys for Florida Waterworks  
Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery to Christiana Moore, Esquire, Division of Appeals, Florida Public Service

Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida  
32399-0850, and David E. Smith, Esquire, Director, Division of  
Appeals, Florida Public Service Commission, 2540 Shumard Oak  
Boulevard, Tallahassee, Florida 32399-0850 on this 14<sup>th</sup> day of  
August, 1996.

  
\_\_\_\_\_  
WAYNE L. SCHIEFELBEIN

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 THE PROPOSED RULE AND ECONOMIC STATEMENT IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED 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:

$$EG \times MP \times D = MR$$

where:

**PUBLIC SERVICE COMMISSION**

DOCKET NO. 960258-WS

RULE TITLE:

Margin Reserve

RULE NO.:

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.

SPECIFIC AUTHORITY: 367.121 FS.

LAW IMPLEMENTED: 367.081 FS.

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



- 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:

$$EG \times MP = MR$$

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 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).

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

FLORIDA WATERWORKS ASSOCIATION,

Petitioner,

v.

DOAH Case No. \_\_\_\_\_  
Filed: August 14<sup>th</sup>, 1996

FLORIDA PUBLIC SERVICE  
COMMISSION,

Respondent.

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MOTION FOR ABATEMENT

The Petitioner, the FLORIDA WATERWORKS ASSOCIATION, by and through its undersigned counsel, hereby moves to abate the captioned proceeding for a time certain. As grounds for this Motion, Petitioner states:

(1) The Florida Public Service Commission (PSC) has scheduled a public hearing beginning on December 10, 1996 to receive and consider oral and written comments from interested persons, concerning the proposed rule challenged in this proceeding.

(2) It is anticipated that, as a result of the comments submitted, the PSC may determine to clarify, modify or revise the challenged proposed rule in a manner which may resolve some or all of the issues raised by the Petitioner in this proceeding.

(3) Administrative economy and efficiency will be served by an abatement of this formal proceeding pending the outcome of the public hearing to be conducted by the PSC beginning on December 10, 1996.

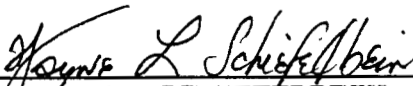
(4) Neither the Petitioner, the PSC nor the public will be prejudiced by an abatement of this proceeding pending the

conclusion of further proceedings to be conducted by the PSC.

(5) The Petitioner requests an abatement until February 28, 1997, whereupon the undersigned will notify and advise the Hearing Officer of the status of the PSC proceedings and the instant rule-challenge petition. Such abatement should be without prejudice to amend the Petition for Administrative Determination of Invalidity of Proposed Rule should changes be made in the proposed rule, as well as without prejudice to the PSC to file responsive pleadings at the end of the period of abatement.

WHEREFORE, the Petitioner, the FLORIDA WATERWORKS ASSOCIATION, hereby moves for an Order placing the captioned proceeding in abatement until and including February 28, 1997.

Respectfully submitted this 14<sup>th</sup> day of August, 1996.

  
\_\_\_\_\_  
WAYNE L. SCHIEFELBEIN  
Gatlin, Woods & Carlson  
1709-D Mahan Drive  
Tallahassee, Florida 32308  
(904) 877-7191

Attorneys for FLORIDA WATERWORKS  
ASSOCIATION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand delivery to Christiana Moore, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and David E. Smith, Esquire, Director, Division of Appeals, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850 on this 14<sup>th</sup> day of August, 1996.

  
\_\_\_\_\_  
WAYNE L. SCHIEFELBEIN