

STATE OF FLORIDA



COMMISSIONERS:
JULIE I. BROWN, CHAIRMAN
ART GRAHAM
RONALD A. BRISÉ
JIMMY PATRONIS
DONALD J. POLMANN

OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850)413-6199

Public Service Commission

April 20, 2017

RECEIVED
2017 APR 20 AM 11:41
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE

Jaime L. Jackson, Senior Attorney
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400

Re: Docket No. 160246-WS – Proposed adoption of Rule 25-30.444, F.A.C., Utility Reserve Fund, and 25-30.4445, F.A.C., Notice of Application for Utility Reserve Fund

Dear Ms. Jackson:

In further response to your March 22, 2017, letter, we submit the below responses. Your comments are reflected in bold and our comments follow.

RECEIVED-FPSC
MAY 02 2017
11:41 AM

25-30-444(1): Section 367.081(2)(c), Florida Statutes, permits the Commission to authorize a utility reserve fund for infrastructure repair and replacement for a utility for “existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service....” The same paragraph directs the Commission to adopt rules to govern the implementation, management, and use of the fund, including, but not limited to, rules related to expense for which the fund may be used....” Therefore, it appears that implementation is required for specific eligible expenses, but the eligible expenses must constitute “existing distribution and collection infrastructure that is nearing the end its useful life or detrimental to water quality or reliability of service,” pursuant to the statute.

Subsection (1) purports to set forth eligible projects for the creation of a utility reserve fund, but refers only to a “future infrastructure repairs or replacement.” It appears that the quoted language may exceed the statutory requirement that the project be “for existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service,” as stated in section 367.081(2)(c). See § 120.52(8)(c), Fla. Statute (2016). Please review and advise.

As we stated in our letter dated April 12, 2017, the word “future” in Subsection (1) is simply used as a timing reference to represent that a utility reserve fund will be established in advance to be used for existing infrastructure projects that will be completed at some point in the

future. It is not intended to suggest that the utility reserve fund would apply to future new construction. In response to your letter, we have added the phrase “existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service” to clarify the language in the introductory paragraph.

25-30-444(f): Please see the comments above regarding section 367.081(2)(c), as they related to the authorization granted in this paragraph. The paragraph permits the disbursement of utility reserve funds for an “emergency repair or replacement that is critical to the operation of the utility facilities,” which appears to expand the statutory requirement that the project be for “existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service.” Please review and advise.

In further response to your letter dated March 22, 2017, Section 367.081(2)(c), F.S., gives the Commission statutory authority to approve the disbursement of utility reserve fund monies for emergency repairs of existing infrastructure. The rule is not intended to allow for disbursement of utility reserve fund for emergency repairs of new construction. In response to your letter, we have added the phrase “existing distribution and collection infrastructure that is nearing the end of its useful or is detrimental to water quality or reliability of service” to clarify that emergency disbursement of utility reserve fund monies are for existing infrastructure only.

As we stated in our letter dated April 12, 2017, we have made the above-mentioned changes in the rule in and will recommend these changes to the Commission at its next public meeting on May 4, 2017. Once the Commission votes on the rule, the Commission will publish a Notice of Change in the Florida Administrative Register. Please do not hesitate to contact me further if you have any questions.

Sincerely,

Adria E. Harper
Senior Attorney

Enclosures

cc: Office of Commission Clerk