

**TESTIMONY OF ARSENIO MILIAN, P.E.  
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION  
REGARDING THE RULES FOR MARGIN RESERVE AND  
IMPUTATION OF CIAC ON MARGIN RESERVE**

*on behalf of:*

**THE FLORIDA WATERWORKS ASSOCIATION  
DOCKET NO. 960258-WS**

*prepared by:*

**Milian, Swain & Associates, Inc.**

2025 S.W. 32 Avenue  
Miami, Florida 33145  
(305) 441-0123  
(305) 441-0688

October 1996

**TESTIMONY OF ARSENIO MILIAN, P.E.**  
**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
**REGARDING THE RULES FOR MARGIN RESERVE AND**  
**IMPUTATION OF CIAC ON MARGIN RESERVE**  
**ON BEHALF OF THE FLORIDA WATERWORKS ASSOCIATION**  
**DOCKET NO. 960258-WS**

DOCUMENT NUMBER-DATE

11168 OCT 18 1988

FPSC-RECORDS/REPORTING

1                                   **TESTIMONY OF ARSENIO MILIAN, P.E.**  
2                                   **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**  
3                                   **REGARDING THE RULES FOR MARGIN RESERVE AND**  
4                                   **IMPUTATION OF CIAC ON MARGIN RESERVE**  
5                                   **ON BEHALF OF THE FLORIDA WATERWORKS ASSOCIATION**  
6                                   **DOCKET NO. 960258-WS**

7  
8  
9   **Q.     PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

10  A.    My name is Arsenio Milian. My business address is 2025 S.W. 32nd  
11        Avenue, Miami, Florida 33145.

12  
13  **Q.     BY WHOM ARE YOU PRESENTLY EMPLOYED, AND IN WHAT**  
14        **CAPACITY?**

15  A.    I am President of the firm Milian, Swain & Associates, Inc. (MSA), which  
16        was established to provide civil engineering consulting services as well as  
17        utility management, systems valuation and rate consulting services.

18  
19  **Q.     PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND**  
20        **PROFESSIONAL EXPERIENCE.**

21  A.    I have received both B.S. and M.E. degrees from the University of Florida.  
22        After graduating, I worked for Post, Buckley, Schuh, & Jernigan, Inc. in  
23        Miami for approximately 11 months. I was then employed by The  
24        Deltona Corporation in August, 1969, as Utilities Engineer. In 1972, I  
25        became Chief Utilities Engineer for Deltona, a position in which I served

1           until December, 1975, when I became Vice President of Utility  
2           Operations. In December 1982, I became President of all Utility  
3           Divisions, a position I held until June 1989. I have been President of  
4           MSA since that time.

5

6   **Q.    WHAT PROFESSIONAL LICENSES DO YOU HOLD?**

7    A.    I have been a licensed professional engineer in the State of Florida since  
8           1972.

9

10 **Q.    WHAT PROFESSIONAL AND CIVIC ORGANIZATIONS ARE**  
11 **YOU ASSOCIATED WITH?**

12 A.    I am a member of the American Water Works Association, American  
13        Society of Civil Engineers, Water Environment Federation, and National  
14        Association of Water Companies. I am a member of the Dade County  
15        Environmental Task Force and the Technical Advisory Committee of the  
16        Governor's Commission For a Sustainable South Florida. I am also  
17        President of Citizens for a Better South Florida, a Council member of the  
18        Wilderness Society, Board member of 1000 Friends of Florida, and  
19        Governor's appointee to the Miami River Coordinating Committee. I  
20        serve as a Board member of the National Audubon Society and as  
21        Chairman of its Everglades Campaign. I served a four year term as a  
22        member of the Governing Board of the South Florida Water Management  
23        District and was its representative on the Advisory Committee on the Dade  
24        County West Well field, the Committee on Inter-District Water Transfer  
25        and the Lake Okeechobee Technical Advisory Committee. I have recently

1 completed a six year term on the City of Miami Zoning Board.

2

3 **Q. HAVE YOU ATTENDED PROFESSIONAL SEMINARS?**

4 A. Yes, I have attended numerous seminars relating to water quality and  
5 treatment, wastewater treatment and disposal, utility management,  
6 environmental issues, NARUC seminars on rates and regulation of water  
7 utilities, and others.

8

9 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE REGULATORY**  
10 **BODIES?**

11 A. Yes, I have testified as an expert witness in rate hearings before the  
12 Florida Public Service Commission. Additionally, I have appeared before  
13 the St. Johns, Hillsborough, and Collier County Boards of County  
14 Commissioners in water and sewer rate proceedings.

15

16 **Q. IN EACH OF THESE PROCEEDINGS, WERE YOU QUALIFIED**  
17 **AS AN EXPERT WITNESS?**

18 A. Yes, I was qualified as an expert in connection with utility engineering,  
19 utility operations and utility regulation.

20

21 **Q. WHAT IS THE NATURE OF YOUR ASSIGNMENT IN THIS**  
22 **CASE?**

23 A. MSA was engaged by the Florida Waterworks Association (FWA) to  
24 provide services in support of the FWA proposed rulemaking.  
25 Specifically, I was asked to perform a study that would accomplish the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

- following:
- Determine and describe the general impact of environmental regulations commonly experienced by private and public utilities in the state of Florida on expected planning and construction schedules, including a comparison of expected impact between private and public utilities,
  - Determine and describe the general impact of used and useful / margin reserve policies on incremental construction management and planning, including specific case experiences by Florida utilities,
  - Determine and describe the calculated expected construction costs of incremental construction as compared to responsible, long term construction.

In addition, the impact on utility rates and utilities earnings has been determined and described by Mrs. Swain.

**Q. HOW DID YOU CONDUCT YOUR STUDY?**

- A. MSA conducted a survey of private utilities and utility financial and engineering consultants, which resulted in the gathering of a tremendous amount of information. Much of this information is described in Ms. Swain's report, EXHIBIT DS-2. I reviewed pertinent parts of the information we obtained, as well as other documents, including specifically those related to:
- Environmental regulations
  - Planning, design, permitting and construction schedules
  - Construction cost estimates

1 I also reviewed the rule proposed by both the FWA and Florida Public  
2 Service Commission.

3

4 **Q. WHAT DID YOU FIND IN YOUR REVIEW?**

5 A. First, I found that the experiences of many utilities with regard to the  
6 impact of environmental regulation is very much in line with my own  
7 experiences. As an expert in environmental permitting for water and  
8 wastewater utilities, I have found that regulations are becoming more  
9 stringent, and that utilities are finding it more and more difficult to adhere  
10 to projected construction schedules because of unexpected delays in  
11 permitting. These delays have been related to new requirements, including  
12 zoning, conditions for wastewater reuse attached to water consumptive use  
13 permits and new restrictions applied to surface water discharge. It is not  
14 uncommon for utilities, private and public alike, to invest five years into  
15 the permitting and design phases. I am also aware of one utility's ten-year  
16 permitting experience.

17 Second, I can attest that the construction cost estimates upon which Ms.  
18 Swain's financial model was based, appear to be reasonable.

19

20 **Q. WHAT CONCLUSIONS DID YOU DRAW FROM YOUR STUDY?**

21 A. Based upon my study, and based upon my many years of experience as a  
22 utility engineer and a utility manager, I have concluded that the rule  
23 proposed by the Commission staff will likely cause utilities to make  
24 decisions regarding sizing utility construction projects that are not prudent  
25 from an engineering standpoint. It is also my opinion that the rule

1 proposed by the FWA will encourage and enable utilities to make the  
2 more appropriate decisions – and economically size their plant  
3 construction.

4  
5 **Q. DID YOU HAVE AN OPPORTUNITY TO REVIEW THE**  
6 **RESULTS OF MS. SWAIN'S FINANCIAL MODELS?**

7 A. Yes, I did. Although I expected to see a significant beneficial impact on  
8 both the utilities' customers and shareholders when plant was prudently  
9 sized, I was, quite frankly, surprised at how quickly the beneficial  
10 economic impact could be seen. Ms. Swain's model shows that the per  
11 customer cost is lower when plants are sized economically. In the  
12 wastewater model , the benefit is immediate, and in the water model, the  
13 cost is lower in larger sized plants after the third year the plant is in  
14 service. These results demonstrate that incentive must be given to utilities  
15 to economically size plant -- further supporting the FWA position, that a  
16 five year margin reserve period is appropriate for treatment and disposal  
17 plant.

18  
19 Furthermore, the return on investment to utility shareholders should not be  
20 reduced as a result of compliance with environmental regulation. No one  
21 benefits from a reduction in earnings – this only serves as a disincentive to  
22 comply with environmental regulations. This disincentive will cause  
23 utilities to delay necessary actions and make less beneficial construction  
24 sizing decisions. And there is very little doubt that the impact will be  
25 higher customer rates in the future as the utility struggles to “catch up”.

1 This is a difficult lesson learned by utilities throughout the state.

2

3 **Q. WHAT IS YOUR OPINION AS TO THE APPROPRIATE**  
4 **TREATMENT OF REUSE FACILITIES?**

5 A. I agree with the FWA, that there need not be a margin reserve applied to  
6 reuse facilities because these facilities should be 100% used and useful. In  
7 addition to the specific provisions of the Florida Statutes which indicate  
8 that they should be fully recovered, DEP and the water management  
9 districts have made it policy to encourage and in many cases require  
10 wastewater reuse. In order to comply with this environmental policy,  
11 utilities must develop reuse plans and construct facilities. To deny the  
12 utilities an opportunity to earn on these facilities is contrary to the  
13 implementation of this policy. The Commission has recognized this, and  
14 in a Memorandum of Understanding between DEP and the Commission  
15 executed in 1992, the Commission agreed to the following:

16 Review proposed rate structures for reuse projects for  
17 private utilities within PSC jurisdiction. As noted in Section  
18 403.064(6), F.S. and pursuant to Chapter 367, F.S., the  
19 PSC shall allow utilities which implement reuse projects to  
20 recover the full cost of such facilities through their rate  
21 structures (*emphasis added*).

22

23 **Q. DOES THIS COMPLETE YOUR DIRECT TESTIMONY AT THIS**  
24 **TIME?**

25 A. Yes.