

Policy No. 98-03
September 23, 1998

POLICY CONCERNING FINANCIAL SECURITY REQUIREMENTS FOR PROJECT APPLICANTS

Whenever, in the judgement of the Commission, it appears necessary to protect the public health, safety or the environment, to ensure that financial obligations to the Commission will be met, or to otherwise ensure compliance with all docket conditions, the Commission may impose certain financial security requirements upon a project applicant. Such requirements may include the submission of a performance bond or such other form of financial security as may be deemed appropriate by the Commission for such purposes. In addition to the foregoing, the Commission may also include conditions in the docket specifying sanctions for non-compliance, including the suspension or revocation of a docket approval.

In determining whether financial security requirements are appropriate, and in establishing the form and amount thereof, the Commission may consider the following factors:

1. The potential threat the project may cause to public health, safety or the environment.
2. The proximity to and potential impact the project may have on nearby water supplies, including surface and groundwater sources.
3. The extent to which discontinuance of water use by the project would be an adequate remedy, either solely or in conjunction with other remedial actions, in the event impacts to public health, safety or the environment are caused by the project.
4. The estimated cost to undertake and complete any necessary remedial actions, including interim or emergency actions. The Commission may require, and may give consideration to remedial action cost estimates submitted by the project applicant, as well as those prepared by its staff or any interested third party.
5. The amount of any financial obligation of the project applicant to the Commission.

The Commission shall establish the form and amount of the financial security, which may include, but is not limited to, surety bonds, collateral bonds, phased deposit of collateral bonds, bank letters of credit, pollution legal liability (environmental impairment) insurance coverage

and/or comprehensive general liability insurance coverage. The Commission will prescribe and furnish the forms for bond instruments. Bonds shall be payable to the Commission and conditioned on the faithful performance of the terms and conditions of the project docket, the rules and regulations of the Commission, all applicable provisions of the Compact, and any orders of the Commission to the project applicant. The Commission will accept only the bond of a surety or the certificate of an insurer authorized to do business in the signatory jurisdiction in which the project is located, and otherwise deemed satisfactory in the sole discretion of the Commission.

The Commission may impose the financial security requirements of this policy on any new or existing projects subject to its jurisdiction under the Compact.