

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

December 5, 1991

TO : DIRECTOR OF RECORDS AND REPORTING

FROM : DIVISION OF WATER AND WASTEWATER (CHASE, MESSER)
DIVISION OF LEGAL SERVICES (FEIL) *gcm*

RE : UTILITY: SOUTHERN STATES UTILITIES, INC.
DOCKET NO.: 910662-WS
COUNTY: CITRUS, COLLIER, HERNANDO, MARION, VOLUSIA,
AND WASHINGTON
CASE: PETITION FOR APPROVAL OF RESTRUCTURING OF
SOUTHERN STATES UTILITIES, INC., DELTONA
UTILITIES, INC., AND UNITED FLORIDA UTILITIES
CORPORATION AND ACKNOWLEDGEMENT OF NAME CHANGE
TO SOUTHERN STATES UTILITIES, INC.

AGENDA: DECEMBER 17, 1991 - CONTROVERSIAL - PARTIES MAY
PARTICIPATE

CRITICAL DATES: NONE

DOCUMENT NUMBER-DATE

12035 DEC-5 1991

FPSC-RECORDS/REPORTING

CASE BACKGROUND

Southern States Utilities, Inc. (SSU), Deltona Utilities, Inc. (DUI), and United Florida Utilities Corporation (United) are utility corporations, which are wholly-owned subsidiaries of Topeka Group Incorporated (Topeka). On a combined basis the utilities own and operate more than 150 water and wastewater systems. On June 6, 1991, SSU, DUI, and United filed a Petition for approval of the restructuring of the utility operations, including the merger of the petitioners, with SSU as the surviving corporation, and the change in the name of the DUI and United utility subsidiaries to Southern States Utilities, Inc.

All three corporations are wholly-owned subsidiaries of Topeka and the merger will not result in a change in ownership or majority organizational control; therefore, staff believes the reorganization does not rise to the level of a transfer pursuant to Section 367.071, Florida Statutes. The reorganization will not affect the rates and charges, the management, operation, or customer service provided by the utilities. We are bringing this to the Commission for its acknowledgement. The Commission has acknowledged similar corporate reorganizations in the past. See Order No. 24139, issued February 2, 1991, (consolidation of two wholly-owned subsidiaries of Utilities, Inc.) and Order No. 24398, issued April 22, 1991, (reorganization of Sunray Utilities, Inc., into two separate entities).

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission acknowledge the merger of SSU, DUI, and United and the name change of the DUI and United utility subsidiaries to SSU?

RECOMMENDATION: Yes. SSU should be required to advise the Commission within twenty days of the completion of the merger. In addition, SSU should be directed to file within thirty days of the merger, a consolidated tariff and the certificates of the DUI and United utility subsidiaries for reissuance in the name of Southern States Utilities, Inc. Within six months of the merger, SSU should provide evidence that the land upon which the utility facilities are located have been transferred to SSU from DUI or United. Finally, the utility should be directed to notify its customers along with the first bill after the merger of the reorganization and name change. (CHASE, MESSER)

STAFF ANALYSIS: On June 6, 1991, SSU, DUI, and United filed a Petition for approval of the restructuring of the utility operations, including the merger of the petitioners, with SSU as the surviving corporation, and the change in the name of the DUI and United utility subsidiaries to Southern States Utilities, Inc. The petitioners are wholly-owned subsidiaries of Topeka, which is a wholly-owned subsidiary of Minnesota Power & Light Company. The directors and officers of each of the petitioners are identical. As explained in the petition, Topeka acquired ownership of SSU in 1984. After the acquisitions of DUI and United in 1989, Topeka determined that SSU, DUI and United should be consolidated into one utility operation. Southern States Utility Services, Inc. (SSUS) was formed to manage and operate the utility systems on a consolidated basis to perform such services as budgeting, accounting, engineering, customer service, billing and collection. Thus, the utilities are, in effect, functionally operating as one utility. The utilities will continue to use SSUS as their management company. The merger of the three corporations, with SSU as the surviving corporation, will result in efficiencies with regard to regulatory requirements, such as a consolidated annual report and tariff, combined rate case application with one set of minimum filing requirements, and consolidated capital structure. As mentioned in the Case Background, the reorganization will not affect the rates and charges, management, operation, or customer service provided by the utilities. Since all three corporations are wholly-owned subsidiaries of Topeka and the merger will not result in a change in ownership or majority organizational control, staff believes the reorganization does not rise to the level of a transfer pursuant to Section 367.071, Florida Statutes. The Commission has acknowledged similar corporate reorganizations in

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the past. See Order No. 24139, issued February 2, 1991, (consolidation of two wholly-owned subsidiaries of Utilities, Inc.) and Order No. 24398, issued April 22, 1991, (reorganization of Sunray Utilities, Inc., into two separate entities).

The DUI and United utility subsidiaries affected by this restructuring and name change are:

Deltona Utilities, Inc. subsidiaries:

Spring Hill Utilities, Inc.
Deltona Lakes Utilities
Marco Island Utilities
Marco Shores Utilities

United Florida Utilities Corporation subsidiaries:

Citrus Springs Utilities
Marion Oaks Utilities
Pine Ridge Utilities
Sunny Hills Utilities

In conversations with SSU, staff learned that existing DUI bond indentures permits DUI to consolidate and merge with SSU and United without bondholder consent. However, the indenture provides that the bondholders' security interests would be extended to all assets of the consolidated entity. SSU is currently negotiating with the DUI bondholders to limit the extent of the bondholders security interest to DUI interests. We have been advised that the restructuring and consolidation will take place upon receipt of a Commission order authorizing the merger regardless of the status of the negotiations with the DUI bondholders. It is anticipated that the consolidation will be legally completed in the first quarter of 1992.

SSU should be required to advise the Commission within twenty days of the completion of the merger regardless of the status of the negotiations with the DUI bondholders. Furthermore, SSU should be directed to file within thirty days of the merger, a consolidated tariff and the certificates of the DUI and United utility subsidiaries for reissuance in the name of Southern States Utilities, Inc. If there is no rate impact, the consolidated tariff will be processed administratively and will become effective upon approval. If there is a rate impact, the consolidated tariff will be brought to the Commission. In its petition, SSU requests that it be allowed six months in which to provide evidence that the land upon which the utility facilities are located have been transferred to SSU from DUI or United. Staff believes this request

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is reasonable and should be approved. In addition, staff believes the utility should be directed to notify its customers of the merger and name change in order to avoid customer confusion regarding the proper name of their water and wastewater utility. This notification can be accomplished along with the first billing after the merger takes place.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: No further Commission action is required in this docket and it should, therefore, be closed. (FEIL)

STAFF ANALYSIS: No further action will be required of the Commission in this docket. Staff can monitor the utility's filing of the items required by Issue 1 administratively. If we find it necessary to bring the consolidated tariff to the Commission, a docket will be opened at that time to address the tariff issues.