

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into) DOCKET NO. 930945-WS
Florida Public Service) ORDER NO. PSC-94-1363-PCO-WS
Commission jurisdiction over) ISSUED: November 9, 1994
SOUTHERN STATES UTILITIES, INC.)
in Florida.)
_____)

ORDER GRANTING MOTION TO STRIKE TESTIMONY OF
HERNANDO COUNTY WITNESS BUDDY L. HANSEN AND
CONFERRING PARTY STATUS UPON HERNANDO COUNTY

On September 12, 1994, Hernando County filed the direct testimony of Buddy L. Hansen. On September 14, 1994, Hernando County filed the corrected testimony of Buddy L. Hansen. On October 5, 1994, Southern States Utilities, Inc. (SSU) filed a motion to strike Mr. Hansen's testimony. On October 17, 1994, Hernando County filed a response to SSU's motion to strike.

In its motion to strike, SSU first argues that Hernando County is not a party to this proceeding, as it has never formally intervened. SSU, therefore, argues that Mr. Hansen's testimony should be stricken so that SSU, Commission Staff, and other parties to this proceeding will not have to expend time and effort unnecessarily.

In its response, Hernando County argues that it is an original party to this proceeding and that it is, therefore, not required to intervene in this proceeding, in which its substantial interests are subject to determination. Hernando County suggests that SSU's argument is as "ludicrous" as suggesting that SSU would have to intervene in a proceeding initiated by the Office of Public Counsel to reduce SSU's rates.

Hernando County's argument regarding its original party status is not without merit. However, the Prehearing Officer notes that there are thirty counties which may be affected by this proceeding and therefore, according to Hernando County's argument, should be considered as original parties. Apparently, most of these have elected not to participate in this proceeding. By convention, an entity whose substantial interests are or may be affected by a proceeding serves notice of its intent to participate in the proceeding by filing a petition. All of the other counties that have elected to participate in this proceeding have formally intervened. The Office of Public Counsel, which is statutorily empowered to represent utility ratepayers before this Commission, initiates its participation in Commission proceedings by filing a

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notice of intervention. Even utility ratepayers, who have just as much claim to original party status as Hernando County, routinely initiate their participation through one or another formal mechanism. Not only does a petition to intervene afford an opportunity to demonstrate that one's substantial interests are or may be affected by the proceeding but, if granted, it also provides a convenient vehicle to inform other parties of a person's party status.

Hernando County should have filed a petition to intervene in this proceeding. It would have avoided a significant amount of needless posturing and acrimony. Nevertheless, it is clear that Hernando County intends to participate as a party in this proceeding. Accordingly, SSU's motion to strike, insofar as it is based upon Hernando County's lack of party status, is denied. In addition, all parties to this proceeding shall henceforth treat Hernando County as a party.

SSU also argues that Mr. Hansen's testimony, which generally concerns uniform rates, should be stricken because it is not relevant to the issue at hand, namely, this Commission's jurisdiction over SSU under Section 367.171(7), Florida Statutes. Hernando County argues that it is premature to strike Mr. Hansen's testimony because the issues for this case have not been finalized.

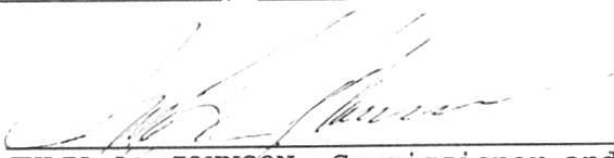
Upon review of Mr. Hansen's testimony, it is apparent that the majority of the testimony is not relevant to a determination of the Commission's jurisdiction under Section 367.171(7), Florida Statutes. The only portions of his testimony which are remotely germane to this case appear on pages 12 through 14. However, on page 12, line 8, through page 13, line 13, Mr. Hansen discusses why he does not believe that the counties can get a fair hearing from this Commission. This portion of Mr. Hansen's testimony is scandalous, impertinent, and an insult to the integrity of this Commission and the administrative process. For that reason, it is stricken. On page 13, line 18, through page 14, line 2, Mr. Hansen discusses his view of the legislative intent regarding Section 367.171(7), Florida Statutes. Mr. Hansen claims no expertise on legislative intent. Moreover, he states that he was "informed" of the legislative intent. Mr. Hansen is clearly not competent to discuss the intent of the legislature. Accordingly, this portion of his testimony is stricken. The remainder of Mr. Hansen's testimony consists of either personal attacks upon this Commission, individual members of this Commission, or the Staff of this Commission, or a discussion of SSU's uniform rates. Mr. Hansen's personal attacks are, again, scandalous and impertinent. His discussion of rate structure is not relevant to the scope of this case. Accordingly, the remainder of his testimony is stricken.

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all paper hereinafter filed in this proceeding upon counsel for Hernando County. It is further

ORDERED that Southern States Utilities, Inc.'s motion to strike the testimony of Hernando County witness Buddy L. Hansen is granted for the reasons set forth in the body of this Order.

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 9th day of November, 1994.



JULIA L. JOHNSON, Commissioner and
Prehearing Officer

(S E A L)

RJP

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.