

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for rate) DOCKET NO. 950495-WS
increase and increase in service) ORDER NO. PSC-95-1208-PCO-WS
availability charges by Southern) ISSUED: September 29, 1995
States Utilities, Inc. for)
Orange-Osceola Utilities, Inc.)
in Osceola County, and in)
Bradford, Brevard, Charlotte,)
Citrus, Clay, Collier, Duval,)
Hernando, Highlands,)
Hillsborough, Lake, Lee, Marion,)
Martin, Nassau, Orange, Osceola,)
Pasco, Polk, Putnam, Seminole,)
St. Johns, St. Lucie, Volusia,)
and Washington Counties.)
_____)

ORDER ESTABLISHING PROCEDURE

On August 2, 1995, Southern States Utilities, Inc., (SSU or the utility) completed the minimum filing requirements for a general rate increase and that date was established as the official filing date for this proceeding. This matter is currently set for an administrative hearing.

The scope of this proceeding shall be based upon the issues raised by the parties and Commission staff (staff) up to and during the prehearing conference, unless modified by the Commission. The hearing will be conducted according to the provisions of Chapter 120, Florida Statutes, and the rules of this Commission.

Discovery

The procedures governing discovery have been previously established by Order No. PSC-95-0943-PCO-WS, issued August 4, 1995. That order on discovery shall govern in this docket. Unless authorized by the Prehearing Officer for good cause shown, all discovery shall be completed by January 22, 1996.

Diskette Filings

See Rule 25-22.0407(1), Florida Administrative Code, for the requirements of filing on diskette for certain utilities.

Notice and Public Information

The utility shall comply with all requirements of Rule 25-22.0407, Florida Administrative Code. The notice required by Rule

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25-22.0407(5), Florida Administrative Code, shall also include a statement that any customer comments regarding the utility's service or the proposed rate increase should be addressed to the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and that such comments should identify the docket number assigned to this proceeding.

No less than fourteen days prior to the date of a scheduled service hearing, the utility shall provide written notice of the date, time, location, and purpose of the service hearing to all customers within the counties designated in the "Controlling Dates" section below. The utility need only provide one such notice to customers within counties for which more than one service hearing is designated as long as the notice contains the pertinent information for all service hearings designated for those customers and as long as the notice is provided no less than fourteen days prior to the earliest designated service hearing. Furthermore, no less than fourteen days and no greater than 30 days prior to the evidentiary hearing beginning January 29, 1996, the utility shall provide written notice of the date, time, location, and purpose of said hearing to all customers within the service areas included in the rate request. All of the above notices shall be approved by staff prior to distribution, and the utility shall mail notices to customers with an out-of-town mailing address as required by Rule 25-22.0407, Florida Administrative Code.

In addition to placing copies of its MFRs at those locations required by Rule 25-22.0406(3)(a), Florida Administrative Code, the utility shall place copies of its MFRs at the main county library of those counties where the utility operates any system included in the rate request and in which the utility has no business offices.

Prefiled Testimony and Exhibits

Pursuant to Rule 25-22.048, Florida Administrative Code, each party shall prefile, in writing, all testimony that it intends to sponsor. Such testimony shall be typed on 8 1/2 inch x 11 inch transcript-quality paper, double spaced, with 25 numbered lines, on consecutively numbered pages, with left margins sufficient to allow for binding (1.25 inches).

Each exhibit intended to support a witness' prefiled testimony shall be attached to that witness' testimony when filed, identified by his or her initials, and consecutively numbered beginning with 1. All other known exhibits shall be marked for identification at the prehearing conference. After an opportunity for opposing parties to object to introduction of the exhibits and to cross-

examine the witness sponsoring them, exhibits may be offered into evidence at the hearing. Exhibits accepted into evidence at the hearing shall be numbered sequentially. The pages of each exhibit shall also be numbered sequentially prior to filing with the Commission.

An original and 15 copies of all testimony and exhibits shall be prefiled with the Director, Division of Records and Reporting, by the close of business, which is 5:00 p.m., on the date due. A copy of all prefiled testimony and exhibits shall be served by mail or hand delivery to all other parties and staff no later than the date filed with the Commission. Failure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony.

Prehearing Statement

Pursuant to Rule 25-22.038(3), Florida Administrative Code, a prehearing statement shall be required of all parties in this docket. Staff will also file a prehearing statement. The original and 15 copies of each prehearing statement shall be prefiled with the Director of the Division of Records and Reporting by the close of business, which is 5:00 p.m., on the date due. Filings on diskette pursuant to Rule 25-22.028, Florida Administrative Code, are encouraged. A copy of the prehearing statement shall be served on all other parties and staff no later than the date it is filed with the Commission. Failure of a party to timely file a prehearing statement shall be a waiver of any issue not raised by other parties or by the Commission. In addition, such failure shall preclude the party from presenting testimony in support of its position. Such prehearing statements shall set forth the following information in the sequence listed below.

- (a) the name of all known witnesses that may be called by the party, and the subject matter of their testimony;
- (b) a description of all known exhibits that may be used by the party, whether they may be identified on a composite basis, and the witness sponsoring each;
- (c) a statement of basic position in the proceeding;
- (d) a statement of each question of fact the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;

(e) a statement of each question of law the party considers at issue and the party's position on each such issue;

(f) a statement of each policy question the party considers at issue, the party's position on each such issue, and which of the party's witnesses will address the issue;

(g) a statement of issues that have been stipulated to by the parties;

(h) a statement of all pending motions or other matters the party seeks action upon; and

(i) a statement as to any requirement set forth in this order that cannot be complied with, and the reasons therefore.

Prehearing Conference

A prehearing conference will be held in this docket at the Easley Building, 4075 Esplanade Way, Tallahassee, Florida. The conditions of Rule 25-22.038(5)(b), Florida Administrative Code, shall be observed. Any party who fails to attend the prehearing conference, unless excused by the Prehearing Officer, will have waived all issues and positions raised in that party's prehearing statement.

Prehearing Procedure: Waiver of Issues

Any issue not raised by a party prior to the issuance of the prehearing order shall be waived by that party, except for good cause shown. A party seeking to raise a new issue after the issuance of the prehearing order shall demonstrate that: it was unable to identify the issue because of the complexity of the matter; discovery or other prehearing procedures were not adequate to fully develop the issue; due diligence was exercised to obtain facts touching on the issue; information obtained subsequent to the issuance of the prehearing order was not previously available to enable the party to identify the issue; and introduction of the issue could not be to the prejudice or surprise of any party. Specific reference shall be made to the information received, and how it enabled the party to identify the issue.

Unless a matter is not at issue for that party, each party shall diligently endeavor in good faith to take a position on each issue prior to issuance of the prehearing order. When a party is

unable to take a position on an issue, it shall bring that fact to the attention of the Prehearing Officer. If the Prehearing Officer finds that the party has acted diligently and in good faith to take a position, and further finds that the party's failure to take a position will not prejudice other parties or confuse the proceeding, the party may maintain "no position at this time" prior to hearing and thereafter identify its position in a post-hearing statement of issues. In the absence of such a finding by the Prehearing Officer, the party shall have waived the entire issue. When an issue and position have been properly identified, any party may adopt that issue and position in its post-hearing statement.

Controlling Dates

The following dates have been established to govern the key activities of this case.

- 1) Intervenors' direct testimony and exhibits November 20, 1995
- 2) Staff's direct testimony and exhibits, if any December 6, 1995
- 3) Rebuttal testimony and exhibits December 20, 1995
- 4) Service Hearings:
Counties Designated
 - Washington September 14, 1995
 - Osceola, Orange September 19, 1995
 - Duval, Clay, Nassau, Putnam, Bradford, St. Johns September 20, 1995
 - Pasco September 28, 1995
 - Hillsborough, Polk October 3, 1995
 - Marion, Putnam October 11, 1995
 - Seminole, Orange, Volusia, Brevard October 12, 1995
 - Hernando October 13, 1995
 - Lake November 8, 1995
 - Highlands November 27, 1995
 - Lee, Charlotte November 28, 1995
 - Martin, St. Lucie December 12, 1995
 - Collier January 22, 1995
 - Citrus, Marion January 24, 1995
- 5) Prehearing Statements December 20, 1995

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| 6) | Prehearing Conference | January 5, 1995 |
| 7) | Discovery Complete | January 22, 1995 |
| 8) | Hearing | January 29-31, and
February 1-2, 5, and
7-9, 1996 |
| 9) | Transcripts Due | February 12, 1996 |
| 10) | Briefs Due | February 26, 1996 |

Use of Confidential Information At Hearing

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding. Any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, Florida Statutes, shall notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute. Failure of any party to comply with the seven day requirement described above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.

When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material. Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so. At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of Records and Reporting's confidential files.

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Post-hearing Procedure

Rule 25-22.056(3), Florida Administrative Code, requires each party to file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. The rule also provides that if a party fails to file a post-hearing statement in conformance with the rule, that party shall have waived all issues and may be dismissed from the proceeding. If a party's position on an issue in the post-hearing statement differs from what appears in the Prehearing Order, the position shall be marked with an asterisk; in the absence of such demarcation, the party's position on that issue will be shown in the staff recommendation as it appears in the Prehearing Order.

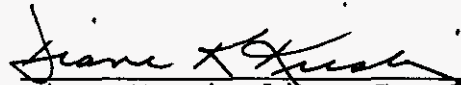
A party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 125 pages, and shall be filed at the same time. The prehearing officer may modify the page limit for good cause. If proposed findings of fact are submitted, the proposed findings must conform with Rule 25-22.056(2)(a) and (b), Florida Administrative Code. In addition, each proposed finding shall be separately and consecutively numbered and shall be followed by a citation to the record, identifying transcript page and line number or exhibit number and page. Proposed findings shall identify the issue to which they relate and shall be grouped by issue, following the order of issues appearing in the Prehearing Order. Any written statement which is not clearly designated as a proposed finding of fact shall be considered to be legal argument rather than a proposed finding of fact. Arguments in briefs must be identified by issue number. Please see Rule 25-22.056, Florida Administrative Code, for other requirements pertaining to post-hearing filings.

Based upon the foregoing, it is

ORDERED by Commissioner Diane K. Kiesling, as Prehearing Officer, that the provisions of this Order, together with the provisions of Order No. PSC-95-0943-PCO-WS, shall govern this proceeding unless modified by the Commission.

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By ORDER of Commissioner Diane K. Kiesling, as Prehearing Officer, this 29th day of September, 1995.


Diane K. Kiesling, Commissioner
and Prehearing Officer

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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.