BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for a rate increase for Orange-Osceola Utilities, Inc, in Osceola County, and Bradford, Brevard, Charlotte, Citrus, Clay, Collier, Duval, Highlands, Lake, Lee, Marion, Marin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, St. Johns, St.Lucie, Volusia, and Washington counties by Southern States Utilities, Inc.

Docket No.: 950495-WS

Filed:

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NASSAU COUNTY CUSTOMERS OF SOUTHERN STATES UTILITIES, INC.'S MOTION FOR RECONSIDERATION BY THE FULL COMMISSION

The Customers of Southern States Utilities, Inc. In Nassau County, by and through Arthur I. Jacobs, Attorney at Law, move the Florida Public Service Commission to reconsider the order established procedure (order PSC-95-1208-PCO-WS) issued by the prehearing officer on September 29, 1995.

SERVICE HEARINGS AND NOTICE TO CUSTOMERS

The order establishes a series of fourteen service hearings including those already held in Sunny Hills on September 14, 1995; Kissimmee on September 19, 1995; Jacksonville on September 20, 1995; New Port Richey on October 3, 1995; and Temple Terrace on October 3, 1995. The remaining nine are set for other locations on various dates beginning Wednesday, October 11, 1995.

The order ignores the deficiencies of the notice already provided to customers by Southern States and ignores the representations made by Commissioners at various service hearings that new customer service hearings would be held. At a minimum, the Commission should require the company to send new notices to customers and set all service hearings anew after customers are provided adequate notice about the rates they may face as a result of this case.

Customers do not know the extent of their exposure to higher rates in this case because Southern States failed to disclose a known court decision about uniform rates to its customers in this notice. The First District Court of Appeal reversed the Commission's uniform rate decision on April

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6, 1995. Southern States filed this case more than two and half months later, yet the filing and notices provided to customers do not give the slightest hint that there will be an issue in this case about uniform rates. The issue affects the substantial interest of customers because it could lead to rate increases for certain customers far exceeding the uniform rate increase proposed by the company.

Southern States could have filed its case requesting uniform rates while at the same time providing adequate information about system-by system revenue requirements and rates on a stand-alone basis. This would have properly responded to the decision of the First District court of Appeal and provided necessary information to customers. Instead, it chose not to provide that stand-alone revenue requirement and rate information, even though it knew about the reversal of the uniform rate decision by the First District Court of Appeal two and half months earlier.

Southern States could have told customers that their rates could go as high as the higher of uniform or stand-alone rates at the end of this case, but it chose not to provide that information to customers. In fact, even the MFR's do not contain stand-alone revenue requirement or rate information for the so-called "uniform" systems, so any customer going to the trouble of traveling to the county library and reviewing the MFR's still will not know that information about their system. All of that information was available to Southern States when it filed this case, and it chose not to provide it.

As a result, the notices provided to customers are highly misleading. They lull customers into the belief that their rates in this case can not go higher than the uniform rates proposed by the company. Since no notice provided by SSU or the Commission provides this information[1] that party must receive a notice that includes a short and plain statement of the matters asserted by the agency and by all parties of record at the time notice is given. If the agency or any party is unable to state the matters in sufficient detail at the time initial notice is given, the notice may be limited to a

[1]The notices of service hearings contain no information at all about any rates, proposed or otherwise. The ten page rate case notice says nothing about the issue of uniform versus stand-alone rates, and the separate pages in the ten page notice giving rate information provide no hint of the issue, either. Within the fine print of the ten page notice there is a standard disclaimer that the Commission is not bound by the company's proposal and can do anything it wants, but this standard disclaimer provides no information about the uniform vs. Stand-alone rate issue and provides no information about the effect of the issue on rates.

statement of the issues involved, and thereafter, a more definite and detailed notice must be given.

Southern States provided no notice about the uniform rate issue to the public, even though it was an issue well known to them that can have a dramatic, adverse effect on the customers of certain systems. The notice provided by Southern States therefore violated the requirement of Section 120.57(1)(b)2.d., Florida Statutes (1993).

Southern States relies on the case of City of Plant City v. Mayo, 337 So.d. 966 (Fla. 1976) to justify its notice to customers, but this case provides no such justification. In Plant City the utility proposed that municipal franchise fees be treated as a general expense of the company, consistent with prior practice. During the hearings staff asked questions on cross examination suggesting that franchise fees should be surcharged as separate items on customer bills, and the Commission ultimately decided to treat franchise fees that way. On appeal, Plant City contended that it had no notice about this potential treatment of franchise fees. The Florida Supreme Court held that the standard form of notice provided by the utility was adequate there.

In contrast to the Plant City. Southern States had the stand-alone rate impact of this case on each system available to it when it filed the case, and it chose to neither file that information nor provide it to customers. It was its choice not to provide information about this issue to its customers, but in doing so it violated Section 120.57(1)(b)2.d., Florida Statutes (1993).

At this point, customers have been severely misled about the potential impact this case may have on their rates. At a minimum, the Commission should direct the company to send a new notice to customers and hold service hearings anew at all fourteen locations after customers have been provided adequate notice.[2] The new notice should:

> (1) Advise customers of each system what their rates would be on a stand-alone basis and on a uniform rate basis if the company should receive its requested revenue increase. The notice should prominently advise customers that their rates could be the higher of stand-alone or uniform rates as a result of this case.

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[2]At the few service hearings held so far, there have been numerous, serious complaints about the inadequacy of Southern States' service. All Commissioners should attend the new hearings to learn about these problems first-hand from customers.

(2) Require SSU to revise its rate case synopsis to provide both uniform rate and stand-alone rate and revenue requirement information for each system.

(3) Advise customers that to the extent there are inconsistencies between the new notice and (a) the MFRs, (b) the company's pre-filed synopsis available in each county, the new notice takes precedence.

(4) Advise customers to disregard all prior notices provided by the company.

RESPECTFULLY SUBMITTED,

Arthur I. Jacobs, Counsel for
Customers of Southern States
Utilities, Inc. In Nassau County

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail this 20th day of October, 1995 to the following:

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