BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by Southern States Utilities Inc. for rate increase and increase in service availability charges 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.	)	DOCKET NO. **950495-WS** FILED: November 2, 1995

MOTION FOR RECONSIDERATION OF ORDER NO. PSC-95-1327-FOF-WS

Pursuant to Rule 25-22.038(2), Florida Administrative Code, the Sugarmill Woods Civic Association, Inc., the Marco Island Civic Association, Inc. and the Spring Hill Civic Association, Inc. (the "Associations"), by and through their undersigned attorney, move the Florida Public Service Commission for reconsideration of Order No. PSC-95-1327-FOF-WS, issued November 1, 1995, The purpose of the reconsideration is to bring to the Commission's attention the erroneous conclusions of law by which the Commission has invited Southern States Utilities, Inc. ("SSU") to file a second petition for interim rate relief. In support of their motion the movants state the following:

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1. On November 1, 1995, the Florida Public Service Commission published Order No. PSC-95-1327-FOF-WS in the instant docket, finding, among other things, that SSU's petition for interim rate relief had to be denied because (1) the utility's request for interim rates utilizing a uniform rate structure was "specifically in conflict with the First District Court of Appeal's decision in Docket No. 920199-WS" and because "the utility's [projected] 1995 budget is not reasonable for the determination of interim rates."

2. The Associations support the Commission's above-cited determination that it could not approve interim rates utilizing a uniform rate structure in direct contravention of the

First District Court of Appeal decision and that portion of the order rejecting SSU's projected interim test year because "it appears that many of the increases reflect the most optimal scenarios put forth by the utility in both controllable and uncontrollable expenditures" and that "[i]t also appears that the utility is picking and choosing what it includes or does not include for interim relating to some known decreases that did occur in 1995." The only portion of the order the Associations seek reconsideration of is the Commission's determination that SSU, notwithstanding its singular reliance on the prohibited uniform rate structure and its singular reliance on an overreaching projected test year, may have a "second bite of the apple" by filing yet another request for interim rates.

3. Cautious, if not prudent, practice would have demanded that SSU alternatively request interim rate relief pursuant to stand-alone rates or modified stand-alone rates in addition to any compulsive determination to seek uniform rates. Why SSU did not do so is beyond the understanding of the Associations. Nonetheless, SSU did just that. It filed only enough information to calculate the prohibited uniform rates, while denying the Commission and its staff the data essential to calculating stand-alone rates. SSU apparently thought it would "box" the Commission into approving uniform rates if it denied the Commission the essential information. Not only did SSU deny the staff and Commission the necessary data to calculate stand-alone rates, it was tempting the Commission to error by charging some systems clearly excessive rates through the uniform rate device.[1] SSU failed in this attempt and left the Commission no

[1] Did SSU really think the Commission was going to "expediently" impose across-the-board interim dollar increases on all systems without any regard to whether each system's rates were supplying SSU with adequate earnings? By varying degrees, Sugarmill Woods and Spring Hill customers are paying such excessive rate subsidies in their current rates that they should be entitled to rate reductions instead of interim increases. Likewise, as reflected by SSU's filing, Marco Island customers are being charged for excessive rate base in their current rates and the interim rates would have had them supporting customers in other systems through both their

alternative means of structuring interim rates even if the Commission were to determine that SSU's earning required interim relief. The Associations find it baffling that SSU stuck all its hopes for interim relief on a rate structure that had clearly been rejected by the First District. SSU squandered its one opportunity for interim relief by this indefensible decision.

4. The decision to rest its entire interim fortunes on the utilization of a projected test year statute that had never been utilized before was every bit as questionable as the uniform rate election. Forget for the moment the self-serving, selective addition or deletion of items that respectively benefited or disadvantaged the proposed interim revenue award, why gamble everything on an untested statute? Why not alternatively plead for interim relief of a presumably lower amount based on the tried and true and uncontroversial historic method utilized by the Commission since the inception of interim rates? The Associations do not know the answer to that question, but they do know that the decisions rested solely with SSU. In short, SSU, whatever its reasoning, rejected a straightforward alternative method of pleading that would have given the Commission the option of considering whether the utility was legally entitled to interim rate relief pursuant to commonly accepted and non-controversial methods. It could have done so. It chose not to do so and has no one to blame but itself.

5. As recognized by the staff recommendation on this matter, interim rates are to be a "quick and dirty" means of providing a utility earnings protection during the pendency of a full rate proceeding. It is an unfortunate phrase to be used with such huge sums of money, but its public acceptance depends entirely upon both the refund provision and the certainty of underearnings as demonstrated by historical fact. Interim rates, if they are to be granted at all, are to be ruled upon within the first 60 days of a case. Well-established and long-standing precedent

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water and wastewater rates.

of this Commission is that utilities only get "one bite of the apple" at interim rate relief. The Commission has recognized that to do otherwise will involve its staff in complicated analysis of repeated interim filings when it should be spending its time on the analysis of whether the utility's permanent rate request is warranted. We are now in the fourth month of this rate case. By SSU's choice, the filing is a massive one involving 141 water and wastewater systems throughout the state. Commission staff should be giving its undivided attention to reading testimony, obtaining discovery and preparing its own testimony in this case. It should not be forcefully diverted from these essential tasks now or later by having to analyze 141 separate interim filings to see if the customers of each are legally required to pay higher interim rates.

6. The Commission Chairman and apparently the other Commissioners did not even know that the new "projected" interim statute had been enacted. It was not part of the Commission's legislative package and most certainly was the work of SSU and other members of the water and wastewater industry. They "slicked" the legislature, the Commission and the consumers in getting the law passed. SSU has slicked itself in relying solely on an illogical and untested statutory interim rate methodology for such claimed critical revenue relief. It should have known better to have risked such a critical undertaking on such an uncertain procedure. That it compounded its error by the bravado of limiting its requested relief to the most controversial rate structure issue in this Commission's water and wastewater history is mind-boggling. That it did so in the face of a First District Court decision clearly reversing the Commission's implementation of the uniform rate structure was incomprehensible and arrogant. That SSU did any of these things and got the logically expected response from the Commission is no reason to give it a "second bite of the apple" and allow it the opportunity of distracting the

Staff and others from more pressing matters.[2] SSU has only itself to blame for its current problems and neither the staff nor the public should be made to suffer from distraction because SSU squandered its opportunity.

WHEREFORE, the Sugarmill Woods Civic Association, Inc., the Marco Island Civic Association, Inc. and the Spring Hill Civic Association, Inc. request that the Commission reconsider and reverse its decision to allow SSU the opportunity to file a second interim rate request in the instant docket.

Respectfully submitted,

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[2] It should be obvious that SSU's permanent filing suffers from the same "uniform" rate infirmities delineated in the order for which reconsideration is sought. The Associations will shortly give the Commission an opportunity to dismiss the entire case based on these failings. SSU should take this opportunity to withdraw or dismiss its own current filing. It could then immediately refile its case and include a renewed and sensible request for interim rates. If it is, in fact, underearning at some of its systems, the utility should convincingly make such a case and give the Commission a credible opportunity of granting it interim rate relief for the systems requiring it.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished by U.S. Mail this 2d day of November, 1995 to the following persons:

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