BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of Southern State Utilities, Inc. and Deltona Utilities, Inc. for Increased Water and Wastewater Rates in Citrus, Nassau, Seminole, Osceola, Duval, Putnam, Charlotte, Lee, Lake, Orange, Marion, Volusia, Martin, Clay, Brevard, Highlands, Collier, Pasco, Hernando, and Washington Counties.	Docket No. 920199-WS Filed: November 27, 1995

MOTION OF SOUTHERN STATES UTILITIES INC. FOR LEAVE TO FILE REPLY AND PROPOSED REPLY

I. MOTION FOR LEAVE TO FILE REPLY

Pursuant to Rule 25-22.037(2), Florida Administrative Code, Southern State Utilities, Inc. ("SSU") hereby files its Motion for Leave to File Reply, along with its proposed Reply, to certain "Responses"[1] to SSU's November 3, 1995 Motion for Reconsideration of Order No. PSC-95-1292-FOF-WS in this proceeding.

SSU respectfully submits that good cause exists to grant this Motion for Leave to File Reply, and for Commission consideration of SSU's Reply, for each of the following reasons: (1) the Responses raise and rely upon matters neither considered nor discussed by the Commission in the October 19, 1995 Order[2]; (2) these matters could

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[1]Responses of Citrus County Board of County Commissioners, et al. ("Citrus County"), Sugarmill Woods Civic Association, Inc. ("Sugarmill Woods"), and Office of Public Counsel ("OPC"). By separate Response of even date herewith, SSU responds to the Motion to Strike filed by Sugarmill Woods Civic Association, Inc.

[2]Order No. PSC-95-1292-FOF-WS ("Order Complying With Mandates, Requiring Refund, and Disposing of Joint Petition") (the "Refund Order").

not reasonably have been anticipated and addressed in SSU's Motion for Reconsideration; (3) as the party having the ultimate burden of persuasion on the relief requested in the pending Motion for Reconsideration, and given the significance and uniqueness of the issues presented, SSU should be accorded a full and fair opportunity to reply on matters raised in opposition to reconsideration of the Refund Order; and (4) basic considerations of due process and reasoned agency decision-making warrant acceptance and consideration of the Reply tendered herewith.

II. REPLY

The arguments advanced and matters raised in the Responses provide no valid basis for denial of the relief requested in SSU's Motion for Reconsideration.

1. At the outset, it is important to recognize that the Responses either affirmatively recognize or do not seriously dispute the following significant matters and governing principles of law:

- the 1993 Final Order established and the Citrus County Court affirmed SSU's just, reasonable, and compensatory combined revenue requirements at some $26 million annually, and those determinations have become the law of the case under well settled principles of Florida law;[3]

- under the interim rates, which were superseded by the Commission's uniform rate structure rates, SSU would not have had a realistic opportunity to recover the revenue requirements found lawful in the 1993 Final Order;

- taken as a whole, the circumstances leading to lifting of the automatic stay in December 1993, including (1) SSU's clear statements that the purpose of a bond was to secure

[3]SSU's Motion for Reconsideration at 3, 17-21.

customer refunds if the Company's increased revenue requirement was successfully challenged on appeal, not to secure refunds in the event the Commission's rate structure change was overturned, and (2) the record of the Commission's deliberations at the November 23, 1993 Oral Argument and Agenda Conference and the Order Vacating Stay, all support SSU's position that the Commission did not predetermine the result set out in the Refund Order and SSU did not "waive" or otherwise relinquish its rights to a fair and even-handed remand remedy that did not involve a penalty to SSU or a confiscation of its property;

- "[t]he Commission's adoption of statewide uniform rates explicitly rejected the company's own rate proposals",[4] thereby eliminating the option to recover authorized revenue requirements via the modified stand-alone rate structure proposed by SSU;

- as expressed by the Court in Tamiami Trail Tours, Inc. v. Railroad Commission, 174 So. 451 (Fla. 1937), the effect of the Court's remand was to afford the Commission the opportunity and authority to return the parties to their former positions, preserving all the rights and options they had prior to imposition of the uniform rate structure in the 1993 Final Order;

- the prospective refund/recoupment plan proposed by SSU is the only remand remedy before the Commission that, as nearly as practicable in the circumstances of this case, will place the parties in the positions they would have attained had the Commission adopted the basic rate structure prescribed in the Refund Order at the time it entered the 1993 Final Order, without economic penalties or windfalls to any affected interest;

- By engrafting an entirely new base facilities charge (BFC) on the Refund Order for some service areas, the Commission has imposed on SSU an unwarranted (and, we trust, unintended) additional refund liability and ongoing rate deficiency of some $105,000 annually.[5]

Instead, the Responses fall back on a combination of (1) mischaracterizing the Commission's Refund Order and the deliberations leading thereto, (2) materially distorting SSU's arguments and

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[4]OPC Response at 4.

[5]SSU's Motion for Reconsideration at 35-37.

prospective refund/recoupment plan, (3) misstating relevant, irrefutable facts, (4) improperly interjecting irrelevant "factoids" that have no logical or equitable bearing on the proper disposition of the issues presented, and (5) placing reliance on inapposite precedent. Nothing in the Responses[6] warrants denial of the relief requested by SSU in its Motion for Reconsideration.

2. OPC (Response at 2-3) seeks to summarily dismiss several of SSU's positions by suggesting, variously (i) that SSU's contention that the Refund Order nullified the revenue requirements found lawful in the 1993 Final Order represents merely SSU's "slant on the result," (ii) that the Refund Order's disregard of SSU's precarious financial situation constitutes merely "an evaluation of alternatives with which SSU disagrees," (iii) that SSU's concerns regarding the Commission's apparent conclusion that the "retroactive rate making" doctrine bars an equitable, even-handed remedy on remand can be explained away as a "simple disagreement with the result," and (iv) that the Refund Order cannot be reconsidered because it constitutes "agency action taken within a range of options." There is absolutely no merit in such suggestions.

First, a review of both the transcript of the September 12, 1995 Agenda Conference and the Refund Order evidences no indication that the Commission was aware that imposition of a one-sided refund

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[6]Citrus County (Response at 1) adopts OPC's Response, and both Citrus County and Sugarmill Woods repeat variations on OPC's arguments. Accordingly, SSU's replies to OPC's Response should be taken to encompass the similar arguments of Citrus County and Sugarmill Woods.

requirement would vitiate, sub silentio, both the revenue requirements it had established in the 1993 Final Order and the Citrus County Court's affirmation of the lawfulness of those revenue requirements. Clear Florida authority on the law of the case doctrine demonstrates the error in any such agency action.[7] These documents also show that the Commission did not give reasoned consideration to SSU's financial situation when it issued the Refund Order, a clear violation of its basic regulatory responsibilities under the circumstances.[8] Second, SSU's Motion for Reconsideration (at 21-24) explained why provision for recoupment of current extraordinary refund expenses would not constitute impermissible retroactive ratemaking. It is ludicrous to suggest that, by bringing to the Commission's attention the Refund Order's apparent misperceptions regarding the nature, validity, and effect of a prospective remand remedy, SSU is merely quibbling with "the result," and should therefore be denied the opportunity to seek

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[7]OPC's alternative assertions that the law of the case concerning SSU's authorized revenue requirements is "completely defeated by the proscription against retroactive ratemaking", or that the Commission gave "full effect" to the law of the case by affording SSU "a fair opportunity to earn the intended return on equity" in the remand remedy, are wrong as a matter of fact and erroneous as a matter of law. The Commission cannot lawfully discharge its responsibilities on remand by ignoring or failing to give balanced consideration to the known financial "end results" of its orders. SSU's Motion for Reconsideration at 6, 43-44. The "future" is now; and all of the financial consequences and impacts of a remand remedy are current and prospective, as are the elements of SSU's proposed refund/recoupment plan, which does not involve "back-billing" on any prior customer consumption. OPC's verbal gymnastics cannot alter these facts.

[8]SSU's Motion for Reconsideration at 5, 9-11.

reconsideration.[9] Finally, a review of the September 12, 1995 transcript and the Refund Order indicates that the Commission did not have before it, and hence could not make a full and fair evaluation of, the complete "range of options" available on remand from the Citrus County decision.

For these reasons, SSU's Reconsideration Motion does not constitute an improper attempt to reargue issues adequately considered and ruled upon by the Commission. Instead, SSU's Motion for Reconsideration is confined to important matters of fact and law overlooked or mistakenly construed or applied -- matters that are entirely proper to bring to the Commission's attention at this juncture. Diamond Cab Co. of Miami v. King, 146 So. 2d 889, 891 (Fla 1962).

3. OPC also improperly resorts to distorting SSU's arguments and mischaracterizing the intent and import of SSU's actions. For example, after conceding that "[t]he Commission's adoption of ... uniform rates explicitly rejected the company's own rate proposals," OPC suggests (Response at 4) that SSU was "free to contest this adverse action" and that SSU abandoned "its own rate proposals", "embraced" or "endorsed" the Commission's uniform rates, and therefore should now be deemed to have voluntarily assumed the

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[9]In a similar vein, OPC suggests (Response at 3) that SSU takes issue with the Refund Order's one inch meter adjustment merely because the Company "would prefer a different base facility charge" for certain service areas. The facts and circumstances pertinent to this aspect of the Refund Order present a classic case for reconsideration, rather than a mere choice between equally valid results. See SSU's Motion for Reconsideration at 34-37.

entire "risk" of appellate reversal of that rate structure. OPC's arguments are based on a fundamental misunderstanding of a public utility's interests in the ratemaking process. When a water company like SSU files for an increase in its rates, the company's overriding interest is in achieving recovery of the revenue requirement it believes is just and reasonable. Matters of rate design and rate structure are secondary considerations so long as the company is afforded a reasonable opportunity to recover its allowed revenue requirement under any reasonable range of rate design/rate structure options. That is precisely what occurred in this case. SSU sought recovery of increased revenue requirements and proposed to recover its costs through a modified stand alone rate structure that represented a measured, gradual movement toward uniform rates. The Commission approved SSU revenue requirements of some $26 million, but rejected SSU's proposed rate structure, replacing it with a uniform rate structure. The Commission's uniform rate structure afforded the Company a reasonable opportunity to realize the $26 million of revenue requirements that the Commission had authorized. Accordingly, SSU had no logical or factual basis for contesting the Commission's rate structure on reconsideration or appeal.

Moreover, by the time the automatic stay became effective, the uniform rate structure rates were the only rates available to SSU that would provide the Company with an opportunity to realize its

authorized revenue requirements.[10] Accordingly, OPC's theory that SSU should now be found to have relinquished its rights because it should or could have sought reinstitution of the wholly inadequate interim rates solely to revert to a Commission-rejected rate structure that might avoid potential refund liability is wrong.[11] The notion that a voluntary "waiver" or "assumption of risk" can be found because SSU "embraced" or "endorsed" the Commission's uniform rate structure is pure hokum.[12] There is no greater merit in OPC's

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[10]No party has suggested, nor could they, that having rejected SSU's modified stand-alone rate structure and prescribed uniform rates by final order, the Commission would even entertain a request by SSU to recover its authorized final revenue requirements under the rejected rate structure. No party has disputed, nor could they, that the interim rates, as finally revised, were designed to produce annual revenues some $400,000 less than the revenue requirements found compensatory by the Commission. See SSU's Motion for Reconsideration at 31. Moreover, since the interim rates had been superseded by the uniform rates almost one month before the automatic stay of the 1993 Final Order took effect, those rates were not a viable alternative in any event. Id. at 30-31.

[11]The fallacy in such arguments is that, under OPC's legal theories, such action would be ineffective to protect the Company from having to make refunds if, on remand, the Commission chose to implement any rate structure change not advocated by the parties, as it effectively did in the Refund Order by engrafting a novel base facilities charge on rates for certain service areas. As SSU has shown, imposition of the new base facilities charge alone creates a $105,000 annual revenue deficiency. SSU Motion for Reconsideration at 34-36.

[12]Nor does the fact that SSU supported the Commission's rate structure on appeal or in a subsequent proceeding mean that the Company should now be held to have "assumed the risk" of judicial reversal of the Commission's rate structure. The Commission must remember that the appellants were seeking to reinstate a stand alone rate structure that was fundamentally at odds with the integrated nature and operation of SSU's water and wastewater service. Thus, of the two contending rate structures on appeal, the Commission's uniform rate structure was more closely attuned to the goals of SSU's own modified stand alone methodology and the realities of its operations.

related claim (Response at 4) that, by implementing the Commission's uniform rate structure, SSU placed itself "in the same position as any other utility which defers to the Commission to fashion rates"[13] and must necessarily bear the risk that the Commission-prescribed uniform rate structure "would fail appellate scrutiny". OPC disregards the significance of City of Plant City v. Mann and comparable cases. See SSU's Motion for Reconsideration at 23-24, 32-33. In sum, the Commission and other agencies have adopted appropriate measures and remedies to assure that regulated utilities are not subjected to revenue undercollections solely because an agency-promulgated rate structure is overturned on appeal. Contrary to OPC's unsupported assertions, other utilities have not routinely been required by the Commission or other agencies to act as sureties of agency-imposed rate structure policies or initiatives. Indeed, the Commission's failure to adopt a remand remedy that affords SSU the same basic treatment provided other regulated utilities vis-a-vis recovery of authorized revenue requirements in these circumstances is itself an independent ground for rescinding the Refund Order's one-sided refund requirement.

4. OPC (Response at 3, 8 (n. 3)) contends that SSU's prospective refund/recoupment plan would "give [SSU] more protection that it would have had if the uniform statewide rates had been upheld on appeal." SSU assumes that OPC's claim is based on a misunderstanding of SSU's proposal and not an intentional distor-

[13]Such mischaracterization of SSU's position flies in the face of OPC's admission (Response at 4) that "[t]he Commission ... explicitly rejected the company's own rate proposals."

tion thereof. In either event, the claim is entirely erroneous. The refund/recoupment plan is prospective only in its operation and effects -- it begins with the current refund expense occasioned and determined by the Refund Order (or any modification thereof on reconsideration). To the extent that the uniform rates charged to customers during prior periods failed to produce aggregate revenues equal to SSU's Commission-approved revenue requirements, or failed to recover the actual costs prudently incurred by SSU to provide service, the refund/recoupment plan does not compensate SSU for those deficiencies.[14] Further, the refund and recoupment features of SSU's plan are designed and will be implemented to disburse and recover only those amounts specified by the Commission in its remand remedy. Hence, factors that cause or result in prospective differences between SSU's costs to serve and base rate revenues are not treated or compensated for in the refund/recoupment plan. For these reasons, there is no logical or factual foundation for OPC's suggestion that the plan contemplates or provides protection from the normal ongoing risks to which any regulated utility is exposed.

5. OPC (Response at 6, 12) charges that SSU's Motion for Reconsideration should be rejected because the Company failed to avail itself of Rule 25-22.061 (2) and "thereby forfeited any claim of harm from having to refund overcharges." OPC's purely procedural objection would improperly deny SSU the substantive consideration that its Motion for Reconsideration is due, and should

[14]In fact, SSU has been experiencing continuing losses, under rates that are not sufficient to recover its ongoing cost of service. See SSU's Motion for Reconsideration at 44.

be rejected for that reason alone. In any event, OPC's argument is based on a complete misreading of the Commission's Rule. The specific provision cited, Rule 25-22.061 (2), is available to "a party seeking to stay a final or nonfinal order of the Commission pending judicial review." Since SSU was not a party seeking judicial review of the 1993 Final Order or the party seeking to stay that Order, the cited provision of the Rule did not apply to SSU.

6. As support for OPC's contention that implementing SSU's prospective refund/recoupment plan would violate established ratemaking principles, OPC relies on a number of court decisions that either do not stand for the proposition cited or simply have no application to the facts of this case. For example, citing Utilities Operating Co. Inc. v. King, 143 So. 2d 854, 858 (Fla. 1962), OPC contends (Response at 8-9) that this is simply a case where "the utility itself breaks the link between rates and revenue requirements." Nothing could be further from the truth. Utilities Operating Co. involved a factual situation where the utility voluntarily sought a rate increase that could not provide a fair return. 143 So. 2d. at 855. That certainly is not the case here. From the outset SSU sought, the Commission approved, and the Court unequivocally affirmed revenue requirements for SSU that were calculated to provide a fair return on investment. Accordingly, Utilities Operating Co. has no legitimate application to the facts of this case.

OPC's reliance on City of Miami v. Florida Public Service Commission, 208 So. 2d 249 (Fla. 1968) also is misplaced.[15] That case stands for the proposition that, once a utility has final rates established by the Commission, the Commission is without authority to order a retroactive reduction in such final rates for any period prior to the date it makes appropriate findings that the utility's existing rates are excessive and fixes new, prospective rates that are just and reasonable. 208 So. 2d 259-60.[16] That is

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[15]The decisions in Westwood Lake, Inc. v. Dade County, 264 So. 2d 7 (Fla. 1972) and Keystone Water Co. v. Bevis, 278 So. 2d 606 (Fla. 1973) add nothing to OPC's argument (Response at 12). Indeed, those decisions support SSU's position that the Refund Order effected an unconstitutional taking of SSU's property. See, Keystone, 278 So. 2d at 608-09.

The reasons why the decision in Gulf Power Co. v. Cresse, 410 So. 2d 492 (Fla. 1982) does not bar implementation of SSU's prospective refund/recoupment plan are fully explained in SSU's Motion for Reconsideration (at 22, n. 20) and need not be repeated here. In addition, OPC's argument on this score is a red herring. In Gulf Power Co., the Court affirmed the Commission's decision to limit prospective application of the utility's new rates to meter readings taken on or after thirty days following the effective date of the new rates. The Commission reasoned, and the Court agreed, that to allow the new rates to be applied to meter readings made on the day following the end of the suspension period would "result in billing of energy consumed before the end of the suspension period and before the effective date of the Commission's action. 410 So. 2d at 493. The simple and complete answer to OPC's argument is that SSU has not asked that its remand remedy be implemented at a date that would violate the Gulf Power Co. rule.

[16]The City of Miami case represents the counter balancing, complementary principle to the general rule expressed, inter alia, in Boyd v. Southeastern Telephone Co., 105 So. 2d 889, 894 (Fla. 1st DCA 1958), namely that a utility seeking a rate increase cannot make such increase effective back to the filing date (or any date prior thereto) and cannot retroactively collect the difference between revenues generated by inadequate interim rates ultimately found too low and the higher revenue requirements later determined to be lawful. Neither of these

not the situation the Commission faces in this case. Accordingly, City of Miami provides no bar to approval of SSU's prospective refund/recoupment plan.[17]

7. Citrus County urges the Commission to "take seriously SSU's persistent complaints or 'threats' that it cannot afford to make PSC-ordered refunds", while simultaneously contesting SSU's evidence of severe financial distress, citing the disposition of SSU's Venice Gardens facilities and the proposed purchase by SSU of the Orange-Osceola facilities. Citrus County Response at 3-4.

The relevant facts on these transactions provide no support for Citrus County's claims. The Venice Gardens facilities were taken under threat of governmental condemnation. In late 1994, SSU received proceeds of $37.4 million on assets with a book basis of $18.2 million, producing a book gain of $19.2 million before income taxes. Cash available after tax deferrals of $6.4 million was used to: 1) repay credit line draws associated with the December 1, 1994 final debt service payment on the 1984 series Deltona Utilities first mortgage bonds ($15.6 million); 2) internal needs such as capital improvement projects ($3.4 million); and 3) a dividend to the parent company intended to maintain a balanced capital structure until suitable replacement facilities are

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decisions is applicable to SSU's plan, which provides prospective rate mechanisms to discharge a current expense incurred in 1995 as a consequence of a remand remedy.

[17]If anything, City of Miami provides additional support for SSU's position that the Commission's retroactive reduction in the base facilities charges for some service areas was ultra vires and otherwise unlawful for a host of reasons. See, SSU Motion for Reconsideration at 34-37.

acquired or construction needs arise ($12.0 million). The Venice Gardens facilities were not regulated by or subject to the jurisdiction of the Commission.

SSU has agreed to pay approximately $13.5 million to purchase the Orange-Osceola facilities, subject to satisfaction of certain conditions. Of the agreed upon purchase consideration, some $10 million involves assumption of existing debt and does not require a cash outlay by SSU. This transaction has not closed as of this date, and SSU's current ability to fund the $3.5 million cash required from its own resources is not assured for the reasons expressed by Mr. Vierima.[18]

Where feasible and contractually permissible, SSU has taken steps to address capital requirements that are consistent with its current financial distress. For instance, SSU has sought the views of the Commission Staff on the appropriate means of transferring the certificate of authority to operate the water and wastewater facilities serving the Enterprise service areas. SSU operates these facilities as a court appointed receiver. SSU has determined that SSU cannot invest approximately $1 million required by the Department of Environmental Protection ("DEP") to bring the

[18]SSU entered into the contract to purchase the Orange-Osceola facilities on September 23, 1994, long before the Commission issued the Refund Order. SSU now is contractually bound to complete the sale according to the purchase contract's terms. Nevertheless, unlike the $8 million extraordinary expense imposed by the Refund Order, the Orange-Osceola transaction involves acquisition of assets with continuing cash flow and earnings, on terms that are beneficial to SSU and its overall utility operations. Hence, there is reason to expect that the necessary financing for the transaction can be secured.

Enterprise wastewater facilities into compliance in light of the Commission's recent rate actions. Thus, SSU is in the process of relinquishing the Enterprise receivership to the courts. Similarly, SSU recently informed DEP that SSU is not in a position at this time to acquire another utility in order to assist DEP in restoring compliance at such utility's facilities.

8. Sugarmill Woods (Response at 4) cites two case decisions that may have relevance to aspects of an appropriate remand remedy in this case.[19] In both cases, the appellate court made it abundantly clear that, upon reversal of a trial court decree or decision, the lower tribunal (a) has broad discretion to fashion restitution remedies on remand, (b) has "inherent power" and a duty to correct its errors by applying equitable principles, (c) should, upon proper request, investigate the facts pertinent to an appropriate remedy, and (d) must, in fashioning a remedy, properly treat not only gains obtained, but also losses or deprivations incurred, under the erroneous decision. The Refund Order is wholly inconsistent with these sound decisional standards, all of which support the remand remedy and refund/recoupment plan recommended by SSU.

9. One final point deserves mention. In a statement embodying the oft-repeated views of Sugarmill Woods and Citrus County and what is apparently the conclusion of the Commission in its Refund Order, Sugarmill Woods states that if SSU was truly

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[19] Mann v. Thompson, 118 So.2d 112 (Fla. 1st DCA 1960) and Sheriff of Alachua County v. Hardie, 433 So.2d 15 (Fla. 1st DCA 1983).

disinterested in the rate structure issue on appeal, "... it could have protected itself in various ways, including by simply allowing the automatic stay to remain in effect." (Sugarmill Woods' Response, at 6). This statement reflects a significant mistake of fact and law which continues to taint the Commission's resolution of the refund issue in response to the Citrus County remand.

The March 22, 1993 Final Order in this proceeding authorized an increase in SSU's final revenue requirements of $6.7 million. When Citrus County appealed the Final Order, that appeal stayed the entire order, not just that portion of the Final Order imposing the uniform statewide rate structure. This fact is confirmed by Citrus County's own statements found in its October 26, 1993 Response in Opposition to SSU's Motion to Vacate Automatic Stay where Citrus County stated as follows:

> Citrus County is a "public body" within the meaning of Rule 9.310(b)(2), Fla.R.App.P. and its filing of a Notice of Appeal with the First District Court of Appeal on October 8, 1993 automatically operated as a stay of Order No. PSC-93-0423-FOF-WS, and, among other provisions of that Order, stayed the implementation of the uniform rates, pending that Court's judicial review.[20]

As confirmed by Citrus County, Citrus County's Notice of Appeal triggered an automatic stay of the entire Final Order including the $6.7 million of increased water and wastewater

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[20]See Citrus County's Response in Opposition to Southern States' Motion to Vacate Automatic Stay and Motion for Reduced Interim Rates Pending Judicial Review, for Recalculated Customer Bills, Refunds and Imposition of Penalties for Violating Automatic Stay filed October 26, 1993 in the above-captioned docket, at paragraph 14. (Emphasis supplied).

revenues. SSU's only legally available means to secure the opportunity to earn the $6.7 million of additional revenues authorized by the Commission was to file a motion to vacate the automatic stay pursuant to Rule 25-22.061(3)(a), Florida Administrative Code. This is precisely the course SSU followed and SSU should not be penalized for its compliance with Commission rules and taking the only steps available and necessary to continue collection of its Commission authorized final revenue increase.

CONCLUSION

SSU respectfully requests that its Motion for Leave to Reply be granted, and that the Commission accept and consider the Reply set out above and grant the relief requested in SSU's Motion for Reconsideration at the earliest possible time.

Respectfully submitted,

ARTHUR J. ENGLAND, JR., ESQ.
Greenberg, Traurig, Hoffman,
Lipoff, Rosen & Quentel, P.A.
1221 Brickell Avenue
Miami, Florida 33131-3260
(305) 579-0605

KENNETH A. HOFFMAN, ESQ.
WILLIAM B. WILLINGHAM, ESQ.
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
P.O. Box 551
Tallahassee, FL 32302-0551
(904) 681-6788

and

BRIAN P. ARMSTRONG, ESQ.
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703
(407) 880-0058

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion of Southern State Utilities, Inc. for Leave to File Reply and Proposed Reply was furnished by U.S. Mail to the following this 27th day of November, 1995:

Harold McLean, Esq.
Office of Public Counsel
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Lila Jaber, Esq.
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Room 370
Tallahassee, FL 32399-0850

Mr. Harry C. Jones, P.E. President
Cypress and Oak Villages Association
91 Cypress Boulevard West
Homasassa, Florida 32646

Michael S. Mullin, Esq.
P.O. Box 1563
Fernandina Beach, Florida 32034

Larry M. Haag, Esq.
County Attorney
111 West Main Street
#B
Inverness, Florida 34450

Susan W. Fox, Esq.
MacFarlane, Ferguson
P.O. Box 1531
Tampa, Florida 33601

Michael B. Twomey, Esq.
Route 28, Box 1264
Tallahassee, Florida 31310

Michael A. Gross, Esq.
Assistant Attorney General
Department of Legal Affairs
Room PL-01, The Capitol
Tallahassee, FL 32399-1050

By: _____
KENNETH A. HOFFMAN, ESQ.