

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

March 7, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (JAEGER) *JAEGER*
DIVISION OF WATER AND WASTEWATER (WILLIS) *WILLIS*

RE: UTILITY: SOUTHERN STATES UTILITIES, INC.
DOCKET NO. 950495-WS
CASE: SOUTHERN STATES UTILITIES, INC. APPLICATION 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.
COUNTY: SEE ABOVE

AGENDA: MARCH 19, 1996- REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\950495RV.RCM

CASE BACKGROUND

Southern States Utilities, Inc. (SSU or utility) is a Class A utility, which provides water and wastewater service to 152 service areas in 25 counties. On June 28, 1995, SSU filed an application for approval of interim and final water and wastewater rate increases for 141 service areas in 22 counties, pursuant to Sections 367.081 and 367.082, Florida Statutes. The utility also requested an increase in service availability charges, approval of an allowance for funds used during construction and an allowance for funds prudently invested. On August 1, 1995, the Commission determined that SSU's application was deficient because it did not include information for Hernando, Hillsborough and Polk Counties in its filing. On August 2, 1995, the utility filed an amended application which included facilities in those counties to meet minimum filing requirements. That date has been established as the official date of filing.

DOCUMENT NUMBER-DATE

02799 MAR-7 8

7567

FPSC-RECORDS/REPORTING

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The Office of the Public Counsel (OPC), the Sugarmill Woods Civic Association, Inc. (Sugarmill Woods), the Spring Hill Civic Association, Inc. (Spring Hill), the Marco Island Civic Association, Inc. (Marco Island), the Concerned Citizens of Lehigh Acres (Lehigh Acres), and the Harbour Woods Civic Association (Harbour Woods) have intervened in this docket. The Commission has scheduled and held customer service hearings throughout the state. Technical hearings are now scheduled to begin on April 29, 1996, and continue into May. Special Agenda Conferences to decide SSU's revenue requirements and rates are scheduled for July 31, 1996, and August 15, 1996, respectively.

By memorandum dated January 4, 1996, Chairman Clark disclosed that she had received two letters (with letters attached) pertaining to this docket. The first was a one-page letter from Florida Lieutenant Governor MacKay, dated December 21, 1995, to which was attached a four-page letter, dated November 21, 1995, from Arend Sandbulte, Chief Executive Officer (CEO) of Minnesota Power, the parent corporation of SSU, to the Honorable Lawton Chiles, Governor of the State of Florida. The second was a two-page letter from Charles Dusseau, Secretary of the Florida Department of Commerce, dated January 2, 1996, to Chairman Clark.

On February 16, 1996, Sugarmill Woods, Marco Island, Spring Hill, Lehigh Acres, and Harbour Woods (Petitioners) filed an Initial Motion for Assignment of All Dockets Involving Southern States Utilities, Inc., to the Division of Administrative Hearings (DOAH) for Hearing of Matters Involving Substantial Interests and Issuance of Recommended Orders (attached to this motion was a September 8, 1995 letter from John Cirello, President and C.E.O. of SSU, to the Lieutenant Governor).

On February 23, 1996, SSU filed its Response to Motion for Assignment of All Dockets Involving SSU to the Division of Administrative Hearings.

The petition with all letters (to include the September 8th John Cirello letter) of Sugarmill Woods, Marco Island, Spring Hill, Lehigh Acres and Harbour Woods is attached hereto as Appendix A. SSU's Response to Motion for Assignment of all Dockets Involving SSU to the Division of Administrative Hearings, filed on February 23, 1996, is attached hereto as Appendix B. This recommendation addresses the appropriate action for the Commission to take as the result of the motion of the Petitioners.

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DISCUSSION OF ISSUES

ISSUE 1: Should the Commission allow oral argument on the Petitioners' Initial Motion for Assignment of All Dockets Involving Southern States Utilities, Inc., to the Division Of Administrative Hearings for Matters Involving Substantial Interests and Issuance of Recommended Orders?

RECOMMENDATION: Yes. Because the rate case has not gone to hearing yet, oral argument should be permitted, with each side allocated ten minutes. (JAEGER)

STAFF ANALYSIS: Because the rate case has not yet gone to hearing, parties should be given the opportunity to address the Commission on this matter. Therefore, Staff recommends that the Commission grant each side ten minutes for oral argument.

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ISSUE 2: Should the Commission grant the Petitioners' motion to assign all dockets involving Southern States Utilities, Inc., to the Division of Administrative Hearings for hearing of matters involving substantial interests and issuance of recommended orders?

RECOMMENDATION: No, reassignment is not necessary. (JAEGER)

STAFF ANALYSIS: As stated in the Case Background, the Petitioners, based on the letters of Lieutenant Governor Buddy MacKay (dated December 21, 1995), and Secretary of Commerce, Charles Dusseau (dated January 2, 1996), to Chairman Clark, have moved the Commission to assign all dockets involving SSU to DOAH for hearing of matters involving substantial interests and issuance of recommended orders.

Position of Petitioners

Because of these two letters from the executive branch, Petitioners state that a dark and heavy shadow "has been cast over the impartiality of each and every Commissioner assigned to this proceeding". They further allege that this intercession on behalf of the utility in this case is "the exercise of undue influence on the Commissioners by the Executive Office of the Governor" and "is like 'toothpaste out of the tube': Once out, it cannot be returned."

Petitioners state that there appears to be two main points to the letters. First, the Executive Office of the Governor is concerned about the financial welfare of SSU, and the only cure is for the PSC to give the utility more of the customers' money. Secondly, the Governor has the final and sole vote in determining whether these Commissioners keep their employment after their current terms expire, and three Commissioners are up for reappointment.

Citing Sections 120.66 and 350.042 (both entitled "Ex parte communications"), Florida Statutes, Petitioners allege that these letters are ex parte communications. Petitioners specifically quote Section 350.042(4), Florida Statutes, which provides:

The commissioner may, if he deems it necessary to eliminate the effect of an ex parte communication received by him, withdraw from the proceeding, in which case the chairman shall substitute another commissioner for the proceeding. (emphasis supplied)

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Petitioners then state:

It requires no citation that all parties to these proceedings should be legally entitled to have their substantial interests adjudicated by persons having no personal bias or prejudice or personal knowledge of the disputed evidentiary facts concerning the proceeding. The fact finder cannot sit in judgment of the merits of a case when his or her neutrality is shadowed or even questioned.

Petitioners refer to Section 350.02(5), Florida Statutes. Since there is no such section, staff presumes the petitioners meant to quote Section 350.01(5), Florida Statutes, as the statute governing the normal procedures for assignment of commissioners to Commission hearings. However, Petitioners note that Section 350.125, Florida Statutes, specifically provides:

Any provision of the law to the contrary notwithstanding, the commission shall utilize hearing officers of the Division of Administrative Hearings of the Department of Administration to conduct hearings not assigned to members of the commission.

Based on the above, and specifically, this latter section, Petitioners' prayer for relief is that the Commission immediately transfer Docket No. 950495-WS and all other dockets involving SSU to DOAH.

Position of Southern States Utilities, Inc.

In its response to the petition, SSU disputes the characterization of the letters as ex parte communications and believes that the Petitioners have a strained interpretation of such letters. SSU claims that the letters contain no information relevant to the case, no positions in support of or against any substantive issue, and that the letters simply request information. SSU further states that the Petitioners have made no attempt to demonstrate how they have been prejudiced and that no such prejudice exists or could arise as a result of the information sought pursuant to the letters. However, SSU does not object to the transfer of this proceeding to DOAH as long as there is no further delay in this proceeding.

Staff Analysis: Other than claiming that there are ex parte communications and citing Sections 120.66, 350.042, and 350.125, Florida Statutes, Petitioners do not state specifically on what code or statute they rely. Section 120.66, Florida Statutes, provides in pertinent part:

- (1) In any proceeding under s. 120.57, no ex parte communication relative to the merits, threat, or offer of reward shall be made to the agency head, after the agency head has received a recommended order, or to the hearing officer by:
 - (a) An agency head or member of the agency or any other public employee or official engaged in prosecution or advocacy in connection with the matter under consideration or a factually related matter.
 - (b) A party to the proceeding or any person who, directly or indirectly, would have a substantial interest in the proposed agency action, or his or her authorized representative or counsel.
- (2) A hearing officer who is involved in the decisional process and who receives an ex parte communication in violation of subsection (1) shall place on the record of the pending matter all written communications received, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall also advise all parties that such matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, if such party requests the opportunity for rebuttal within 10 days after notice of such communication. The hearing officer may, if the officer deems it necessary to eliminate the effect of an ex parte communication received by him or her, withdraw from the proceeding, in which case the division shall assign a successor.
(emphasis supplied)

Section 350.042, Florida Statutes, provides that commissioners "shall neither initiate nor consider ex parte communications concerning the merits, threat, or offer of reward in any proceeding" The section provides that commissioners knowingly receiving such ex parte communications must place on the record of the proceedings copies of all communications received and provide

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notice of the same to the appropriate parties. Then, subsection (4) of that section provides that a commissioner may, if he or she deems it necessary to eliminate the effect of an ex parte communication, withdraw from the proceeding, in which case the chair shall substitute another commissioner.

Staff believes that the referenced two letters do not rise to the level of withdrawal. Although Section 350.125, Florida Statutes, recognizes that DOAH hearing officers may be used for those hearings not assigned to members of the Commission, it gives no guidance on what sort of cases may be assigned to DOAH. However, Section 120.57(1)(b)9, states what the hearing officer's recommended order contains, namely: findings of fact, conclusions, interpretations of administrative rules, and recommended penalty. Where an agency head is unavailable, and a hearing officer is called to preside, then the hearing officer, in addition to making findings of fact and conclusions of law, is charged to record, recommend, and critique agency policy as revealed in the record. However, his or her observations concerning policy matters do not carry the authority attending his findings of fact. See, McDonald v. Department of Banking and Finance, 346 So. 2d 569, 582 (Fla. 1st DCA 1977).

Utility ratemaking is a legislative function (See, Chiles v. Florida Public Service Commission Nominating Council, 573 So.2d. 829, 832 (Fla. 1991)). Many issues in a rate case are not strictly factual, but are imbued with policy considerations. For example, in Docket No. 951029-WU, the Commission is currently considering how to calculate the used-and-useful plant when efforts of the water management district, coupled with the Commission's approved rate structure, produce a significant decrease in water usage. This is not just a purely factual determination, but is imbued with policy considerations. Also, for this case specifically, the appropriate rate structure is a major policy consideration. Because rate making is primarily a legislative function and infused with policy making, it would be inefficient to send a rate case to DOAH. The hearing officer just does not have the specialized expertise and responsibilities that the commissioners have. This specialized knowledge should be present at any hearing.

Although Petitioners have not moved for recusal or disqualification, their request for assignment of all SSU cases to DOAH, to include this docket, would effectively remove the Commission's expertise and special knowledge from being present at the formal hearing. In the cases of McDonald, supra, at 579, and Charlotte County v. General Development Utilities, Inc., 653 So. 2d

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1081, 1085 (Fla. 1st DCA 1995), the District Court recognized that agencies had special expertise and that many decisions concerning ultimate facts are actually opinions infused by policy considerations for which the agency has special responsibility. It would seem incongruous that, in a case of this magnitude and having statewide implications, the Commission would take an action that would limit its ability to use its special expertise.

Also, the Petitioners have requested that all SSU dockets be transferred to DOAH. Staff notes that Docket No. 920199-WS is on remand, and that Dockets Nos. 930880-WS and 930945-WS are currently on appeal. Therefore, these dockets are not currently in a position to be transferred.

In summary, staff believes that the Petitioners have failed to demonstrate why all SSU cases should be assigned to DOAH. Staff does not believe that the letters, without anything more, justify the reassigning of all SSU cases to DOAH. Therefore, staff recommends that the Commission deny the Petitioners' motion to reassign all SSU cases to DOAH.

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ISSUE 3: Should this docket be closed?

RECOMMENDATION: No. (JAEGER)

STAFF ANALYSIS: This docket should remain open for the purposes of completing the rate case. The matters in issue in this recommendation are procedural and are not in any way dispositive of this docket.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Application for rate increase for Orange-)
 Osceola Utilities, Inc. in Osceola County,)
 and in Bradford, Brevard, Charlotte, Citrus, Clay,)
 Collier, Duval, Highlands, Lake, Lee, Marion,)
 Martin, Nassau, Orange, Osceola, Pasco, Putnam,)
 Seminole, St. Johns, St. Lucie, Volusia, and)
 Washington Counties, by Southern States)
 Utilities, Inc.)
 _____)

DOCKET NO. 950495-WS
 FILED: Feb. 16, 1996

**INITIAL MOTION FOR ASSIGNMENT OF ALL DOCKETS INVOLVING
 SOUTHERN STATES UTILITIES, INC. TO THE DIVISION OF ADMINISTRATIVE
 HEARINGS FOR HEARING OF MATTERS INVOLVING SUBSTANTIAL INTERESTS
AND ISSUANCE OF RECOMMENDED ORDERS**

The Sugarmill Woods Civic Association Inc., the Marco Island Civic Association, Inc., the Spring Hill Civic Association, Inc., the Concerned Citizens of Lehigh Acres, and the Harbour Woods Civic Association (collectively the "Movants"), by and through their undersigned counsel, move the Florida Public Service Commission to transfer the above-styled docket and all other pending dockets involving Southern States Utilities, Inc. ("SSU") to the Division of Administrative Hearings to avoid the possibility of partiality resulting from the ex parte communications from the Governor's Office, which is the appointing authority of Florida Public Service Commission Commissioners. In support thereof, the Movants state:

1. The Florida Public Service Commission ("PSC") is established by Section 350.011, F.S. Section 350.01, F.S. provides that it consists of five commissioners appointed pursuant to Section 350.031, F.S. While the PSC is the arm of the legislative branch, the legislative intent of Chapter 350, F.S. states that "[i]t is the desire of the Legislature that the Governor participate in the appointment process of commissioners to the Public Service Commission. Section 350.001, F.S. (Emphasis supplied).

2. Accordingly, the law provides that the Florida Public Service Commission Nominating Council nominate a minimum of three persons for each vacancy and that the Governor fill each vacancy from the list of nominees supplied to him. Section 350.031, F.S. Persons serving on the commission who seek reappointment, must file a statement to that effect and are then treated procedurally in the same manner as new applicants. Section 350.01, F.S.

3. Section 350.042, F.S. provides that commissioners "shall neither initiate nor consider ex parte communications concerning the merits, threat, or offer of reward in any proceedings" The section provides that commissioners knowingly receiving such ex parte communications must place on the record of the proceedings copies of all communications received and provide notice of the same to the appropriate parties. Section 350.042(4), F.S. specifically provides in relevant part:

The commissioner may, if he deems it necessary to eliminate the effect of an ex parte communication received by him, withdraw from the proceeding, in which case the chairman shall substitute another commissioner for the proceeding.

(Emphasis supplied).

4. Hearings before the PSC are typically assigned pursuant to the provisions of Section 350.02(5), F.S., except that section still refers to a the long-defunct "commission's office of hearing examiners." However, Section 350.125, F.S. provides:

Any provision of the law to the contrary notwithstanding, the commission shall utilize hearing officers of the Division of Administrative Hearings of the Department of Administration to conduct hearings not assigned to members of the commission.

5. The PSC is an "agency" for purposes of Chapter 120, F.S. ("the Administrative Procedure Act"), and the instant docket, among others involving SSU, is one involving "the

substantial interests of a party to be determined by an agency”, as defined by Section 120.57(1), F.S.

6. Section 120.66, F.S. provides a general prohibition against ex parte communications in Section 120.57 proceedings and provides:

(1) In any proceeding under s. 120.57, no ex parte communication relative to the merits, threat, or offer of reward shall be made to the agency head, after the agency head has received a recommended order, or to the hearing officer by:

(a) An agency head or member of the agency or any other public employee or official engaged in prosecution or advocacy in connection with the matter under consideration or a factually related matter.

(b) A party to the proceeding or any person who, directly or indirectly, would have a substantial interest in the proposed agency action, or his authorized representative or counsel.

(Emphasis supplied).

7. Section 120.66(3), F.S. provides that any person who makes an ex parte communication prohibited by subsection (1) may be assessed a civil penalty not to exceed \$500 or be subjected to such other disciplinary action as his superiors may determine.

8. As reflected in the record of this docket, this proceeding has been assigned to the entire five-member commission for hearing. Previous to the instant motion, several of the Movants, including the Sugarmill Woods Civic Association, Inc. and the Spring Hill Civic Association, Inc., plus the Board of County Commissioners of Citrus County, sought the recusal of Commissioner Diane Kiesling from this docket and two others involving SSU on the basis of her alleged bias and prejudice against the Movants and for SSU. By the issuance of Order No. PSC-95-1199-PCO-WS, Commissioner Kiesling refused to disqualify herself. By the issuance of

Order No. PSC-95-1438-FOF-WS, the remainder of the commission refused to disqualify Commissioner Kiesling. The Movants sought review of these orders by filing a petition for review of non-final action with the First District Court of Appeal, where the action is still pending.

9. In late December, 1995, PSC Chairman Susan Clark disclosed that she had received two *ex parte* communications in the above-cited docket. The first was a one-page letter from Florida Lt. Governor Buddy MacKay, dated December 21, 1995, to which was attached a four-page letter, dated November 21, 1995, from Arend Sandbulte, Chief Executive Officer of Minnesota Power, the parent corporation of SSU, to the Honorable Lawton Chiles, Governor of the State of Florida. The Lt. Governor's letter and attachment are appended to the instant motion as Attachment A.

10. The Sandbulte letter mentioned him meeting both the Governor and Lt. Governor at "a recent Florida Council of 100 meeting at the Breakers." The primary thrust of the letter was that Minnesota was a "major stakeholder in Florida through ownership since 1984 of Southern States Utilities" and that a recent PSC reversal of a 1993 decision involving uniform rates, coupled with a \$8 million refund requirement would have a staggering impact on SSU and that "the financial result will be devastating on SSU's ability to attract financing and continue to make investments in Florida's future."

11. Lt. Governor MacKay's letter reported that he had several discussions on the direction of the state's water with the president of Southern States Utilities, and noted "they play a valuable role in preserving the quality of Florida's water by purchasing and upgrading small, often rural, failed water and wastewater systems." He cited the Sandbulte letter and went on to

commend Sandbulte "for his interest in supporting our efforts to generate a positive economic development and jobs climate in Florida for businesses and citizens, and stating specifically that

Sandbulte

is very concerned about the regulatory environment at the PSC -- which over the last year have resulted in a year-to-date loss of \$453,749 and reduced the utilities [sic] rate of return on investment to -.43 percent.

(Emphasis supplied). Lt. Governor MacKay expressed a specific concern for SSU to Chairman

Clark, saying the following:

I realize that your rate making decisions are very complicated and our office would not question those detailed, case specific decisions. However, I would be very concerned if we were to place in serious financial jeopardy a unique private water utility that is providing quality water and wastewater treatment facilities throughout the state.

12. The copy of the Sandbulte letter attached to the Lt. Governor's letter to Chairman Clark was not a "clean" copy, but, rather, was a copy that bore two facsimile machine telephone numbers, dates, times and business titles revealing that the attachment had first been transmitted from SSU's headquarters in Apopka, Florida, and then, subsequently, from the offices of Capital Strategies, Inc. at which SSU lobbyist Jeff Sharkey is employed.

13. The second ex parte communication revealed by Chairman Clark was a two-page letter from Charles Dusseau, Florida Secretary of Commerce, dated January 2, 1996, to Chairman Clark. This letter is attached as Attachment B. In his letter Dusseau cited receiving (he didn't say from whom) a copy of the Sandbulte November 21, 1995 letter to the Governor, said he was concerned "an unpredictable environment, even in a regulated setting [could] put financial pressure on firms such as SSU" causing them to go elsewhere. Dusseau said he had asked a member of his staff to consult with PSC staff so he, Dusseau, could be advised "on the reasoning

behind the Commission's order and on what, if any, recourse might be available to Southern States Utilities."

14. The Dusseau letter showed carbon copies to Governor Chiles and Jeff Sharkey, SSU's lobbyist.

15. On January 4, 1996, two days after the receipt of the Dusseau letter, the full commission, with Commissioner Deason dissenting, voted to grant SSU some \$5.9 million (according to the PSC's calculations) in interim rate increases after having previously rejected its first interim rate request.

16. Still later, the Lt. Governor transmitted a message to Public Counsel Jack Shreve asking him to examine the ex parte communications issue and advise him from the consumers' perspective. The undersigned made a verbal public records demand on the Public Counsel for the Lt. Governor's transmittal and obtained, among other things, a copy of a September 13, 1995 letter from John Cirello, SSU President, thanking him meeting with Cirello and his "team" on August 30, 1995. The Cirello letter is attached to this pleading as Attachment C.

17. The Cirello letter discusses how development can be moved from the coast and dense areas of the state to "less dense" areas through the use of a "rate mechanism", which, presumably, means "uniform rates" since he describes disincentives to development at certain locations if they are forced to pay the complete costs of their own water and sewer service. The Cirello letter fails to mention the oft-mouthed advantages of uniform rates such as avoiding rate shock, protecting the aquifer, and others, and, instead, focused on it as a means of directing real estate development.

18. Neither Cirello nor the Lt. Governor mention it in their written communications, but it is a commonly known fact that an SSU affiliate, Lehigh Acquisitions Corporation, is the owner of thousands of home sites at both Lehigh Acres and Sugarmill Woods. See Attachment D, which is an excerpt of a Minnesota Power Annual Report. SSU has both water and sewer systems at Lehigh Acres and Sugarmill Woods. Less commonly known is the rumor that Minnesota Power or an affiliate is on the verge of purchasing the huge ITT-owned real estate development at Palm Coast and its ancillary water and sewer operations.

19. It requires no citation that all parties to these proceedings should be legally entitled to have their substantial interests adjudicated by persons having no personal bias or prejudice or personal knowledge of the disputed evidentiary facts concerning the proceeding. The fact finder cannot sit in judgment of the merits of a case when his or her neutrality is shadowed or even questioned. There is a dark and heavy shadow cast over the impartiality of each and every Commissioner assigned to this proceeding by the action of the person with the power to retain or not retain them in their powerful, prestigious and well-paying jobs, the Executive Office of the Governor, interceding heavily, if not clumsily, on behalf of the utility in this case. The exercise of undue influence on the Commissioners by the Executive Office of the Governor is like "toothpaste out of the tube": Once out, it cannot be returned. While the full scope and term of the intercession of the Executive Office of the Governor in this case on the side of the utility is not yet known, the fact of the intercession is clear and obvious to anyone capable of reading the English language. Even a quick reading of the MacKay, Sandbulte, Dusseau and Cirello letters leaves one with the inescapable conclusion that the Executive Office of the Governor is concerned about the financial welfare of SSU. This can mean only one thing, since there is only one cure to the

financial condition of SSU, if it is perceived as being substandard. The obvious and only cure is for the PSC to give the utility more of the customers' money. That is the obvious part. The less clear point, although only slightly so, is that the Governor has the final and sole vote in determining whether these Commissioners keep their employment after their current terms expire. The point is far from academic since Commissioners Johnson, Kiesling and Garcia will be up for reappointment before Governor Chiles leaves office.

20. Movants have subpoenaed lobbyist Jeff Sharkey and Commerce Secretary of depositions on Friday, February 16, 1996, as well as Chuck Hill, the Director of the Division of Water and Wastewater, and served and received a response to a public documents request on the Executive Office of the Governor. Accordingly, Movants expect to shortly amend this motion with facts that will show the following:

A. Jeff Sharkey is a lobbyist for SSU and Minnesota Power. He is a former business associate of the Governor's son Budd in the firm of Chiles Communication, Inc., the predecessor company to Sharkey's current employer, Capital Strategies, Inc.

B. In addition to having worked with the Governor's son, Sharkey has played active roles in political campaigns involving both the Governor and Lt. Governor. He is of the "inner circle" in the Governor's Office and not only is perceived as having influence with the Executive Office of the Governor, but has it as well.

C. Sharkey, as lobbyist for SSU, arranged the meetings between Arend Sandbulte and the Governor and Lt. Governor at the Florida Council of 100 meeting at the Breakers, arranged Sandbulte's membership in the Florida Council of 100, arranged the August 30, 1995 meeting between SSU President Cirello and the Lt. Governor to discuss the use of "water mechanisms" to

control or direct real estate development, and arranged the ex parte communications between the Lt. Governor and Secretary Dusseau and Chairman Clark.

D. Sharkey is known to all or a portion of the Commissioners for his relationship and perceived influence with the Executive Office of the Governor and has been present at PSC Agenda Conferences at which votes on key SSU matters have been taken by the Commission.

21. While Movants expect to amend the instant motion to transfer, it is abundantly clear to them that a heavy shadow has been cast over these proceedings that can only be lifted by the assignment of this case, and all cases involving SSU, to the Division of Administrative Hearings, where it can be heard by a clearly impartial hearing officer, whose employment is protected by career service and is not subject to the unbridled discretion of the Governor's Office.

22. While the PSC does not routinely assign cases to the Division of Administrative Hearings, it does on occasion. Furthermore, other "agency heads" assign Section 120.57(1), F.S. hearings to the Division on an almost exclusive basis. No "evidence" of any kind has been heard by any Commissioner in this case, let alone all of them. To the extent that customer service hearings are considered "evidence", no Commissioner has attended all of the hearings and a Hearing Officer could familiarize himself or herself by reading the transcripts of proceedings. The true technical hearings in this case to begin hearing the evidence do not begin until late April, 1996 and, thus, there is more than adequate time for a Hearing Officer to become familiar with the case.

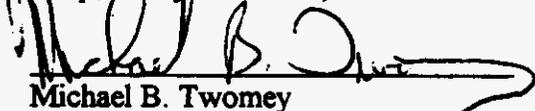
23. Assigning this case to the Division of Administrative Hearings does not provide a complete and comfortable solution to the possible perception that Commissioners could be unduly influenced by the Executive Office of the Governor since the Hearing Officer would issue a

Recommended Order for the surviving Commissioners' final determination. Such a procedure, however, would greatly restrict the ability of the Commissioners to modify the findings of fact of the Hearing Officer, while any changes of his or her conclusions of law could adequately be addressed on appellate review.

24. The communications from the Executive Office of the Governor and one of his other appointees were clearly prohibited *ex parte* communications proscribed by both Chapters 120 and 350, F.S. They are arguably subject to civil penalties pursuant to the provisions of Chapter 120, F.S. It is clear that these prohibitive communications were orchestrated by SSU through one of its lobbyists with ties to the Executive Office of the Governor. It is also clear that there is an implicit threat that Commissioners could suffer on their bids for reappointment if they continue to leave SSU in what it considers to be a financially unviable position.

IN VIEW OF THE ABOVE, the Movants respectfully request that the Florida Public Service Commission immediately transfer Docket No. 950495-WS and all other dockets involving Southern States Utilities, Inc. to the Division of Administrative Hearings.

Respectfully submitted,



Michael B. Twomey
Attorney for the Sugarmill Woods Civic Association, Inc. Marco Island Civic Association, Inc., Spring Hill Civic Association, Inc., Concerned Citizens of Lehigh Acres and the Harbour Woods Civic Association

(904) 421-9530

CERTIFICATE OF SERVICE

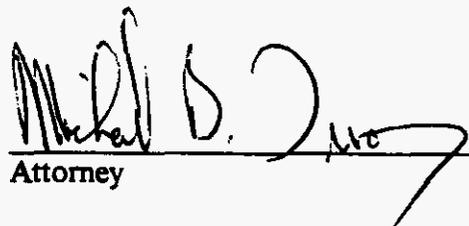
I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished by hand delivery or U.S. Mail, postage prepaid, this 16 th day of February, 1996 to the following persons:

Brian Armstrong, Esquire
General Counsel
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703

Kenneth A. Hoffman, Esquire
Rutledge, Ecenia, Underwood,
Purnell & Hoffman, P.A.
Post Office Box 551
Tallahassee, Florida 32302

Lila A. Jaber, Esquire
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
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Harold McLean, Esquire
Associate Public Counsel
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c/o The Florida Legislature
111 West Madison Street, Suite 812
Tallahassee, Florida 32399-1400



Attorney



95-0516 DEC 27

OFFICE OF THE LIEUTENANT GOVERNOR

December 21, 1995

Ms. Susan F. Clark, Chair
Public Service Commission
Gunther Building
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0855

Dear Commissioner Clark:

I have had several discussions recently on the direction of the state's water with the president of Southern State Utilities. They are very interested in being part of the dialogue we are having to protect and preserve one of our most valuable resources.

Although they are not a large player in the overall water management policy discussions presently underway through various legislative and executive office forums, as the state's largest private water utility they play a valuable role in preserving the quality of Florida's water by purchasing and upgrading small, often rural, failed water and wastewater systems.

In addition, I have received a copy of a letter sent to Governor Chiles by Mr. Arend Sandbulte, chairman and CEO of Minnesota Power, that details the current economic impact of recent Public Service Commission decisions on Southern States Utilities.

Mr. Sandbulte, who has joined the Florida Council of 100, because of his interest in supporting our efforts to generate a positive economic development and jobs climate in Florida for businesses and citizens, is very concerned about the regulatory environment at the PSC - which over the last year have resulted in a year-to-date loss of \$453,749 and reduced the utilities rate of return on investment to -.43 percent.

I realize that your rate making decisions are very complicated and our office would not question those detailed, case specific decisions. However, I would be very concerned if we were to place in serious financial jeopardy a unique private water utility that is providing quality water and wastewater treatment facilities throughout the state.

I would appreciate any information you might be able to provide me on the overall economic and financial consequences facing SSU as outlined in the attached letter so I can respond to Mr. Sandbulte's concerns.

Sincerely,

Buddy MacKay
Buddy MacKay

RECEIVED

DEC 21 1995

Florida Public Service Comm.
Commissioner Clark

KHM/kcr

attachment

THE CAPITOL
TALLAHASSEE, FLORIDA 32399-0001

A RECYCLED PAPER PRODUCT PRINTED WITH SOY INK

7587

Ida Roberts



minnesota power / 30 west superior street / duluth, minnesota 55802-2083 / telephone 218-722-2641

Arvid J. Sandbulte - chairman and chief executive officer

November 21, 1995

**The Honorable Lawton Chiles
Governor, State of Florida
The Capitol
Tallahassee, Florida 32399-0001**

Dear Governor Chiles:

I appreciated the chance to see and hear you and Lt. Gov. McKay at the recent Florida Council of 100 meeting at The Breakers. Jim Apthorp originally sponsored my membership in this group so that my company could be represented and participate in activities to help Florida achieve its goals. As an out-of-state member of the Council, I appreciate your interest in public-private partnerships and creating win-win situations for the betterment of Florida and its stakeholders. The topic chosen for the Council of 100 meeting, water resources, was of particular interest to me.

Minnesota Power (MP) is a major stakeholder in Florida through ownership since 1984 of Southern States Utilities (SSU) of Apopka which, with about 150 plants stretching from The Panhandle to Collier County, is the largest investor-owned water and wastewater utility in Florida and follows only the municipal systems of Miami and Jacksonville in overall size. We also own 80 percent of Lehigh Acquisition Corporation, which is in the real estate sales business at Lehigh Acres (near Fort Myers) and Sugar Mill Woods, located north of Tampa. Our Florida utility and real estate assets total some \$408 million, not the largest corporate investor in the state, but by no means the smallest. About 21 percent of Minnesota Power's corporate assets are located in Florida, and we'd like to grow that percentage. Our investment strategy -- earning fair and reasonable profits in Florida -- is based on a vibrant marketplace, with respect to real estate, and based on fair regulatory treatment from the Florida Public Service Commission (FPSC). With respect to the latter, we have a serious problem. Please allow me to explain.

SSU is a vital partner with the State of Florida, the Department of Environmental Protection (DEP) in particular, in not only providing safe drinking water to the company's water customers, but in protecting the state's precious water resources and aquifer through proper wastewater treatment and re-use of reclaimed water. The latter has been and is being accomplished through special reclaimed water projects, aquifer storage and recovery wells, and award-winning conservation programs and, in some instances, by taking over failing systems at the request of Florida regulators and bringing them into compliance because there was no adjacent or willing municipality ready to perform that state purpose.

ALWAYS AT YOUR SERVICE

minnesota power

Governor Chiles
November 21, 1995

Page 2

Recently the Florida Public Service Commission reversed a 1993 decision in which they had approved additional revenues for SSU of \$6.7 million to be collected under uniform water and wastewater rates for SSU's customers, a practice used by the majority of states which have considered the issue and by many Florida counties, and one which the Commission long has followed for electric and telephone company customers. The 1993 uniform rate decision was reaffirmed after a year's worth of statewide hearings considering conservation, aquifer protection, centralized SSU services and the affordability issues of "rate shock," which occurs when large capital expenditures are required for environmental reasons on plants with a small number of customers. That is why the Commission's recent order which would require Southern States to revert to so-called "stand-alone" rates is so disconcerting.

One group of customers (whose water usage, by the way, is significantly higher than the state's average usage and whose rates were higher on a uniform versus stand-alone basis) appealed the 1993 decision. The recent FPSC reversal was in response to an order issued by the First District Court of Appeals on that appeal. The appellate court said that the FPSC needed to make a specific legal finding that SSU's operations were "functionally-related" before ordering a uniform rate structure. That finding was made by the FPSC in June 1995 following another year-long proceeding.

However, when the mandate came down from the courts, the FPSC decided not to reopen the original case and incorporate the "functionally-related" finding, stating they were declining to do so "as a matter of policy," without any further explanation. They then proceeded to order retroactive "stand-alone rates" (which could raise water and wastewater bills for many retirees to over \$100 a month), ordered SSU to make refunds of \$8 million to customers of a small number of plants, and said we could not collect any underpaid amounts from other customers resulting from a rate structure the Commission ordered us to institute in 1993.

The impact of this decision on SSU is staggering. If it stands, the financial result will be devastating on SSU's ability to attract financing and continue to make investments in Florida's future. The Commission awarded SSU \$6.7 million in additional revenue in 1993, and now they are asking that \$8 million be refunded. This will create mass confusion and severe financial ramifications with our customers. Monthly bills for homeowners in nearly 100 communities throughout the state will increase, some by as much as 300 percent. And the rates of the high-use water customers who appealed will drop even further, encouraging less conservation concern than ever among these high-use customers.

minnesota power

Governor Chiles
November 21, 1995
Page 3

Governor, I don't believe we are whiners. If you believe we're at fault somehow, I hope you'll tell us what we've done wrong so that we have a chance to consider doing things differently. We want to do the right things and do those things right. If you have any questions about our corporate citizenship record, I invite you to talk to Arne Carlson, Governor of Minnesota. I'm sure he'll tell you Minnesota Power is one of the top corporate citizens in the State of Minnesota, from the multi-faceted standard of dedication to economic development, to outstanding service to utility customers and honesty and integrity in all our business activities.

The FPSC actions of late require us to pursue fair treatment through asking the Commission to reconsider its decisions which affect us so negatively or, if necessary, through the courts. Court action may engender negative publicity for MP; however, we have no choice but to seek fair treatment. We'll not be driven from Florida without a fight, a fight thrust on us by an inconsistent and problematical FPSC decision-making process and record.

We want to help solve Florida's water-related issues, but we can't do so when FPSC decisions create for us violations of loan covenants with our lenders. With the loss of income this FPSC order would produce, our coverage ratio would be well below the minimum required by the loan documents. We simply cannot continue putting \$20 million or more annually into water utility investments, most of it to meet environmental and customer-needs demands, unless we can make a reasonable profit. We certainly can't do so if we are in default with our lenders! This is not a rocket-science issue, but rather one of simple equity and fairness. The public-private partnership is just not working, and it needs to be fixed!

We will continue our efforts to get fair treatment from the FPSC directly or, if it's not forthcoming from them, through the courts. Any advice, guidance, counsel or constructive criticism you can offer to normalize the current unfortunate situation will be appreciated and seriously considered. We are willing to meet anytime, anyplace, with anyone for that purpose.

I hope to hear from you soon.

Sincerely,


Arend Sandbulte

mjk

copy: Lt. Gov. Buddy McKay

bc: Ed Russell; Jim Roberts; John Cirello; Brian Armstrong; Ida Roberts

**FINANCIAL IMPACT OF FPSC ORDER
Reversing Uniform Rates and Ordering Refund**

SSU faces potentially severe financial consequences as a result of the FPSC order (PSC-95-1292-FOF-WS, 10/19/95) which reverses its order on uniform rates for SSU (docket number 920199-WS).

- **In its final 1993 uniform rate order (docket number 920199-WS) the FPSC authorized additional revenues for SSU of \$6,670,033. On October 19, 1995, the Commission reversed itself on uniform rates and ordered SSU to refund \$8,677,803 to certain customers without providing any provision for recovery of these monies.**
- **The FPSC authorized return on equity in the 1993 rate order was 12.14 percent. Due to required investments in new plant, rising expenses, and reduced revenues, SSU projects a 1995 return of -0.43 percent. SSU is losing money at current authorized rates even before considering the impact of an \$8.68 million refund.**
- **Through October 1995, SSU has incurred a year-to-date loss of \$453,749. If the FPSC does not reconsider its 10/19/95 order, including the refund, SSU will book an aggregated after-tax loss in excess of \$5 million in 1995. The company's retained earnings will be wiped out.**
- **The following financial and operational consequences have occurred as a result of recent Commission decisions:**
 - ◊ **SSU has been placed on a credit watch by its principal lenders SunBank, N.A. and CoBank.**
 - ◊ **SSU's pretax interest coverage is below 1, a level classified as non-investment grade by rating agencies.**
 - ◊ **The company's primary bonding company, SafeCo Surety, has advised that SSU will be unable to obtain performance bonding for the ordered refund, without parent company indemnification.**
 - ◊ **The company's liquidity uncertainties are significant and there are serious doubts as to whether SSU can continue to meet operating, construction, and debt service requirements from current revenue.**
 - ◊ **A proposal for a back-up credit line was withdrawn by a prospective lender.**
- **SSU is being forced to relinquish its role as receiver of Enterprise Utilities Corporation because of the approximately \$1 million needed to provide a new adequate means for effluent disposal and the impact such an investment would have on customers.**
- **SSU is having to decline a request from the Florida Department of Environmental Protection that SSU take over troubled water and wastewater plants in Tampa.**



FLORIDA DEPARTMENT OF COMMERCE
Secretary Charles Dusseau

GOVERNOR
Lebron Chiles

Office of the
Secretary
(904) 486-3104
Fax (904) 922-9180

Economic
Development
(904) 486-6300
Fax (904) 922-9666

International Trade
and Development
(904) 486-6124
Fax (904) 487-1807

Tourism
(904) 922-8867
Fax (904) 922-9324

Administrative
Services
(904) 486-4377
Fax (904) 921-2174

January 2, 1996

Susan F. Clark, Chairperson
Florida Public Service Commission
Gurther Building
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0855

Dear Commissioner Clark:

I recently received a copy of a letter sent to Governor Chiles by Mr. Arend Sandbulte, Chairman and CEO of Minnesota Power in Duluth, Minnesota. As you are aware, Minnesota Power owns Southern States Utilities, a water and wastewater utility company based in Apopka. This letter outlined his corporation's concerns regarding the PSC's recent uniform rate ruling pertaining to Southern States Utilities (PSC-95-1292-FOF-WS).

Businesses frequently contact this Department with concerns about regulatory decisions, and the PSC under your leadership has been very supportive of our efforts to ensure a fair and favorable setting for economic development in Florida. Your recent cooperation on the economic development expenditures issue and the telephone area code issue are good examples. However, as you can imagine, one of the basic elements for business survival in any marketplace is a predictable and stable business climate. Without it, business managers are unable to make informed decisions which can often make the difference between business survival and failure. An unpredictable environment, even in a regulated setting, can put tremendous financial pressure on firms such as SSU, which may lead them to rethink their investment in Florida and could cause businesses considering Florida as a site for expansion to go elsewhere.

In this case, I have asked a member of our staff, Nick Leslie, to consult with your staff and with the Water Policy Office in the Department of Environmental Protections. Nick will advise me on the reasoning behind the Commission's order and on what, if any, recourse might be available to Southern States Utilities. Nick can be reached at 487-2568.

FLORIDA

Collins Building
107 West Gaines Street
Tallahassee, Florida 32399-2000

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TO 319044219543 P.22

DFO OF THE SEC /CCMM TEL:904-922-9150

Jan 02 96 14:05 No. 0012 P. 05

Susan F. Clark, Chairperson
January 2, 1996
Page Two

As always, I appreciate the cooperation of the Commission and thank you for your attention to this issue.

Sincerely,



Charles Dusseau
Secretary of Commerce

CD:ss

cc: Governor Lawton Chiles
Jeff Sharkey

FILE



Southern States Utilities • 1000 Cedar Place • Apopka, FL 32703 • 407/880-0008

September 8, 1995

The Honorable Buddy McKay
Lieutenant Governor
The Capitol
Tallahassee, FL 32399-0001

Dear Governor McKay:

I appreciate your taking the time to meet with me and members of my team on Wednesday, August 30. The discussion was productive and the exchange of ideas valuable for all of us.

It was apparent that we have a common interest in directing growth to the more water rich, interior portions of the State through pricing mechanisms. As indicated, we have proposed a rate structure to the Florida Public Service Commission that would have customers in areas requiring advanced water treatment technologies, generally coastal communities, pay the marginal cost of providing that service.

At the same time, our single tariff approach for the remaining customers helps to support growth in areas of low density by averaging costs among all customers. Otherwise, with a small base of customers, adding or improving the plant creates excessive rates when those costs are borne by that community alone. These high rates become a disincentive for community development.

As Florida's largest private water and wastewater utility, we are fully aware of our responsibilities in the preservation and management of the State's water resources. In that regard, we pledge to work with you and Mr. Eatus Whitfield, who attended our meeting, as you deem appropriate.

Again, thank you for meeting with us and I look forward to hearing from you in the future.

Very truly yours,

SOUTHERN STATES UTILITIES, INC.

John Cirillo, Ph.D., P.E.
President and C.E.O.

JCS

WATER FOR FLORIDA'S FUTURE



INVESTMENTS

A sizable portion of Minnesota Power's earnings comes from financial investments other than utilities and utility-related businesses. The investments include a \$329 million portfolio that contains a variety of securities as well as ownership in a financial guaranty reinsurance company.

About half the securities in the portfolio are preferred stocks and common stocks of other electric utilities. The portfolio is managed to earn a consistent return while preserving funds for potential reinvestment in our existing businesses or acquisition of new businesses. Some investments are hedged to lessen the portfolio's sensitivity to changes in interest rates and market conditions.

Lehigh Acquisition Corp.

Investments also include real estate holdings in southwest Florida. The Company acquired the real estate in 1991 along with a utility system it purchased in a package deal. Initially our Topeka Group subsidiary owned two-thirds of Lehigh Acquisition Corp., with the remainder owned by two Florida businessmen experienced in real estate. In June 1993 Topeka Group increased its ownership to 80%.

Lehigh's real estate consists of 7,000 undeveloped home sites and 5,500 acres of unimproved property, including commercial, residential and agricultural land. The plan is to sell the Lehigh property over the next several years as profitable opportunities arise.

Lehigh's income comes mainly from the sale of real estate property and interest income related to installment lot sales. Selling Lehigh's properties dovetails with expansion goals for our Florida utilities, which serve the Lehigh properties. In addition to profit on each lot sale, we gain another utility customer.



When a new home is sold in Lehigh, Fla., our affiliated utility companies gain a customer. Last year Lehigh Corp. sold 425 developed lots, many of them to builders who construct and sell homes to families interested in southwest Florida's balmy winter temperatures.

Lehigh's sales strategy includes selling lots at reasonable prices to builders, who build and sell the homes. The lots come with water and sewer service. Lehigh homes, built to be affordable, have modern design and interior features. Another marketing plus is Lehigh's hometown touch. Unlike many Florida developments, Lehigh is

an established community offering many quality-of-life features as well as diversity of family types and ages. A new Welcome Center, dedicated in 1993, introduces prospective homebuyers to benefits of living in Lehigh and showcases the work of the 11 builders who sell homes there.

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, Highlands,)
Lake, Lee, Marion, Martin,)
Nassau, Orange, Osceola, Pasco,)
Polk, Putnam, Seminole, St. Johns,)
St. Lucie, Volusia and Washington)
Counties.)
_____)

Docket No. 950495-WS

Filed: February 23, 1996

**SSU'S RESPONSE TO MOTION FOR ASSIGNMENT
OF ALL DOCKETS INVOLVING SSU TO THE
DIVISION OF ADMINISTRATIVE HEARINGS**

Southern States Utilities, Inc. ("SSU"), by and through its undersigned attorneys, hereby responds to the Motion for Assignment of All Dockets Involving SSU to the Division of Administrative Hearings filed by Sugarmill Woods Civic Association, Inc., the Marco Island Civic Association, Inc., Spring Hill Civic Association, Inc., the Concerned Citizens of Lehigh Acres and the Harbour Woods Civic Association (hereinafter referred to collectively as "Intervenors") and states as follows:

1. SSU does not believe there is any merit in the Intervenors' strained interpretation of letters from the Lieutenant Governor and the Secretary of Commerce.

2. SSU disputes Intervenor's characterization of the letters as ex parte communications. The letters were sent to Chairman Clark by the Lt. Governor and the Secretary of Commerce -- not by SSU. Although a lobbyist retained by SSU advised aides to the Lt. Governor and Secretary of Commerce to obtain information concerning

SSU from the Florida Public Service Commission -- the decisions as to whether to send the letters and the contents of the letters themselves were decisions which ultimately rested with and were made by the Lt. Governor and the Secretary of Commerce -- not SSU.

3. The letters contain no information relevant to this case. The letters state no position in support of or against any substantive issue or Commission action; the letters simply requested information concerning SSU.

4. The Intervenors' Motion makes no attempt to demonstrate that Intervenors have been prejudiced by virtue of the fact that the letters at issue were sent to and presumably reviewed by the Chairman. No such prejudice exists nor could it arise as a result of the information sought pursuant to the letters. The Intervenors have alleged only that "a heavy shadow has been cast over these proceeding...."¹ Indeed, Intervenors admit that "[n]o 'evidence' of any kind has been heard by any Commissioner in this case, let alone all of them."²

5. SSU disputes the numerous unfounded allegations and characterizations in the Motion³ and emphasizes that the issues to be decided in this proceeding must be decided based on sworn testimony provided under oath.

6. Contrary to the misleading interpretation being carried out by counsel for Intervenors, SSU points out that in a report on

¹Intervenors' Motion, at ¶ 21.

²Id., at ¶ 22.

³See, e.g., Id., at ¶ 20.

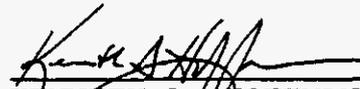
January 16, 1996 to the Hernando County Board of County Commissioners, which is no longer represented by Intervenor's counsel, the Hernando County attorney provided his interpretation of the Lieutenant Governor and Secretary of Commerce letters as follows:

"I don't think the letters were intended directly to try to influence the Public Service Commission."

This appears to SSU to be the only reasonable explanation of the requests for information from the Lieutenant Governor and Secretary of Commerce.

7. Although SSU disputes the facts and characterizations in the Motion, SSU does not object to the transfer of this proceeding to the Division of Administrative Hearings so long as there is no further delay in this proceeding.

Respectfully submitted,


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.
MATTHEW FEIL, ESQ.
Southern States Utilities, Inc.
1000 Color Place
Apopka, Florida 32703
(407) 880-0058

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of SSU's Response to Motion for Assignment of All Dockets Involving SSU to the Division of Administrative Hearings was furnished by U. S. Mail to the following on this 23rd day of February, 1996:

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Michael B. Twomey, Esq.
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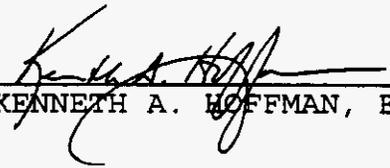
Mr. Kjell Pettersen
P. O. Box 712
Marco Island, FL 33969

Mr. Frank Kane
1208 E. Third Street
Lehigh Acres, FL 33936

Mr. Paul Mauer, President
Harbour Woods Civic Association
11364 Woodson Loop N
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Mr. W. Allen Case
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Sugarmill Woods Civic Asso.
91 Cypress Blvd., West
Homosassa, FL 34446

Arthur I. Jacobs, Esq.
P. O. Box 1110
Fernandina Beach, FL
32305-1110



KENNETH A. HOFFMAN, ESQ.

1995/rate.1response