

FLORIDA PUBLIC SERVICE COMMISSION

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M E M O R A N D U M

March 23, 1995

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF WATER AND WASTEWATER (HILL, WILLIS, RENDELL)
DIVISION OF LEGAL SERVICES (O'SULLIVAN) No

RE: UTILITY: SOUTHERN STATES UTILITIES, INC., SPRING HILL
UTILITIES, AND DELTONA LAKES UTILITIES
DOCKET NO. 920199-WS
COUNTY: BREVARD, CHARLOTTE/LEE, CITRUS, CLAY, DUVAL,
HIGHLANDS, LAKE, MARION, MARTIN, NASSAU,
ORANGE, OSCEOLA, PASCO, PUTNAM, SEMINOLE,
VOLUSIA, WASHINGTON, COLLIER, AND HERNANDO

CASE: APPLICATION FOR A RATE INCREASE

AGENDA: APRIL 3, 1995 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: I:\PSC\LEG\WP\920199-R.RCM

CASE BACKGROUND

Southern States Utilities, Inc., and Deltona Utilities, Inc., (hereinafter referred to as the utility or SSU) are collectively a class A water and wastewater utility operating in various counties in the State of Florida. On May 11, 1992, SSU filed an application to increase the rates and charges for 127 of its water and wastewater systems regulated by this Commission. According to the information contained in the minimum filing requirements (MFRs), the total annual revenue for the water systems filed in the application for 1991 was \$12,319,321 and the net operating income was \$1,616,165. The total annual revenue for the wastewater systems filed in the application for 1991 was \$6,669,468 and the net operating income was \$324,177.

By Order No. PSC-92-0948-FOF-WS, issued September 8, 1992, and as amended by Order No. PSC-92-0948A-FOF-WS, issued October 13, 1992, the Commission approved interim rates designed to generate annual water and wastewater systems revenues of \$16,347,596 and

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\$10,270,606, respectively. By Order No. PSC-93-0423-FOF-WS (also referred to as the Final Order), issued March 22, 1993, the Commission approved an increase in the utility's rates and charges which set rates based on a uniform statewide rate structure. Numerous motions for reconsideration were decided by this Commission. Upon the filing of petitions for reconsideration, SSU filed a motion requesting a stay of the provisions of the Final Order requiring refunds of interim revenues within 90 days. This motion was approved by Order No. PSC-93-0861-FOF-WS, issued June 8, 1993.

On September 15, 1993, pursuant to the provisions of the Final Order, Commission staff approved the revised tariff sheets and the utility proceeded to implement the final rates. On October 8, 1993, Citrus County and Cypress and Oak Villages (COVA) filed a Notice of Appeal of the Final Order at the First District Court of Appeal. That Notice was amended to include the Commission as a party on October 12, 1993. On October 18, 1993, the utility filed a Motion to Vacate Automatic Stay. By Order No. PSC-93-1788-FOF-WS, issued December 14, 1993, the Commission granted the utility's motion to vacate the automatic stay. The Order on Reconsideration, Order No. PSC-93-1598-FOF-WS was issued on November 2, 1993.

The Final Order addressed the status of SSU's service availability charges in relation to the initiation of uniform rates. The Commission found that it was not necessary at that time to review the service availability charges, but required the utility to file an application for service availability charges within two years of the date of the order. Therefore, the utility was required to file a service availability application by March 22, 1995. SSU has not filed an application, but has instead filed a motion for an extension of time. This recommendation addresses SSU's motion.

DISCUSSION OF ISSUES

ISSUE 1: Should Southern States Utilities, Inc.'s Motion for Extension of Time to Initiate Service Availability Charge Filing be granted?

PRIMARY RECOMMENDATION: Yes. SSU's Motion should be granted. SSU should file the service availability application by June 30, 1995. SSU should be put on notice that any further delay may warrant the initiation of a show cause proceeding. (O'SULLIVAN, RENDELL)

ALTERNATIVE RECOMMENDATION: No. SSU's Motion should not be granted. Instead, SSU should be required to show cause, in writing, why it should not be fined up to \$5,000 a day, for their failure to file the service availability application by March 22, 1995. (HILL, WILLIS)

STAFF PRIMARY ANALYSIS: The Final Order addressed the impact of uniform rates upon SSU's service availability charges, and whether service availability charges must be revised prior to establishing statewide rates. After reviewing the testimony and evidence, the Commission made the following findings:

- 1) that a review of service availability charges is not required prior to establishing rates in this proceeding or prior to implementing uniform, statewide rates;
- 2) that a change in the service availability charges will not affect current revenue requirements; and
- 3) that it will be many years before any increase in service availability charges would affect rates.

However, the Commission found it appropriate to require the utility to file an application for service availability charges within two years of the issuance of the Final Order. As the order was issued March 22, 1993, SSU should have filed its application by March 23, 1995.

On March 3, 1995, SSU filed a motion for extension of time to initiate the service availability filing. SSU's motion details the activities in this docket, the uniform rate investigation docket (Docket No. 930880-WS), and the docket investigating the Commission's jurisdiction over SSU's facilities (Docket No. 930945-

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WS). SSU alleges that "these and other dockets have consumed the time of SSU's staff since March 22, 1993". SSU states that although it has attempted to compile the data for the service availability filing, it has been unable to complete the filing by the March 22, 1995 deadline. SSU also states that it anticipates filing a general rate increase by June 30, 1995, with the requested historical test year of 12 months ending December 31, 1994. SSU intends to base its service availability filing upon the same information. Because the financial information will not be available until at least March 31, 1995, SSU states that it will not be able to file the service availability request until June 30, 1995.

In its Motion, SSU does not allege that the pending cases have had a substantive impact upon the service availability filing. Rather, it contends that the workload produced by those pending matters have made it impossible to make the filing within the deadline. SSU's request will result in a three month extension of time to make the filing.

Staff believes that there is no substantive harm in delaying the filing of service availability case for a short period of time as we recommend herein. However, Staff does note that SSU has had two full years to prepare this filing and should not be surprised by the time requirement now. Despite these concerns, Staff recommends that the Commission grant SSU's motion for extension of time, and permit the utility to make its service availability filing by June 30, 1995. However, the utility should be put on notice that any further delay may warrant the initiation of a show cause proceeding.

None of the parties in this docket have filed a response to the utility's motion and the time for filing such has expired. However, on March 16, 1995, Staff received a letter from Mr. Richard Bergmann on behalf of the Marco Island Sewer and Water Committee. Although Mr. Bergmann and the Marco Island Sewer and Water Committee are not parties in this case, Staff does want to bring the receipt of this letter to the Commission's attention. In his letter, Mr. Bergmann states that he opposes the delay in filing the service availability filing. Mr. Bergmann is a customer of the Marco Island system, which is not a part of this docket. However, Mr. Bergmann was a party in another SSU docket, Docket No. 920655-WS, Application of Southern States Utilities, Inc., for Increased Water and Wastewater Rates in Collier County (Marco Island Utilities). In that docket, the utility agreed to and the Commission approved a stipulation whereby the utility will file a service availability case within two years. (Order No. PSC-1070-

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FOF-WS, issued July 23, 1993). Therefore, SSU must file a service availability case for Marco Island by July 23, 1995. Staff will advise Mr. Bergmann of this deadline.

STAFF ALTERNATIVE ANALYSIS: Staff agrees with the primary analysis above, with the exception of the conclusion. As stated above, SSU has had two full years to prepare this filing and should not be surprised by the time requirement now. Although staff does acknowledge that there has been a substantial workload produced by pending matters, SSU was well aware of the requirement placed upon it by this Commission. It is true the Commission initiated an investigation to determine the reasonableness of uniform rates in Docket No. 930880-WS. However, the utility, by its own motion filed for a Declaratory Statement for jurisdiction over systems in Hillsborough and Polk counties. This filing resulted in the Commission initiating an investigation of statewide jurisdiction of SSU. Therefore, the utility has contributed to this increased workload.

The requested delay of three months to file the required service availability application should not result in any substantive harm. However, SSU was aware of the importance of this requirement and should have made every attempt to complete this filing within this two year period. Therefore, SSU's Motion should not be granted. Instead, SSU should be required to show cause, in writing, why it should not be fined up to \$5,000 a day, for their failure to file the service availability application by March 22, 1995.

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ISSUE 2: Should the docket be closed?

RECOMMENDATION: No. The docket should remain open pending the outcome of the appeal and other matters which remain pending. (O'SULLIVAN).

STAFF ANALYSIS: The utility is continuing to make refunds and must file a final report addressing additional adjustments to CIAC accounts. Because of these pending concerns and the appeal pending before the First District Court of Appeals, the docket should remain open.