

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 950495-WS

Filed: March 26, 1996

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FILE COPY

JOINT PREHEARING STATEMENT OF MARCO ISLAND CIVIC ASSOCIATION,
INC., SUGARMILL WOODS CIVIC ASSOCIATION, INC., CONCERNED CITIZENS
OF LEHIGH ACRES, EAST COUNTY WATER CONTROL DISTRICT, AND
THE HARBOUR WOODS CIVIC ASSOCIATION

The Marco Island Civic Association, Inc. ("Marco Island"), Sugarmill Woods Civic

ACK ✓ Association, Inc. ("Sugarmill Woods"), Concerned Citizens of Lehigh Acres ("Concerned
AFA / Citizens"), East County Water Control District ("East County") and the Harbour Woods Civic
APP Association ("Harbour Woods") by and through their undersigned attorney, file the following
CAF Joint Prehearing Statement in accordance with earlier procedural orders issued in this docket.
CMU
CTR

WITNESSES

The separate intervenors will sponsor testimony by the following witnesses who prefiled
testimony and exhibits:

All Parties, except Concerned Citizens and East County:

Judge Robert Mann: appropriateness of uniform rates

Sugarmill Woods Civic Association, Inc.:

Budd Hansen: revenue requirement and rate design for Sugarmill Woods

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FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING 7877

Al Bertram: well drilling technique impact on water quality

Marco Island Civic Association, Inc.:

Mike Woelffer: revenue requirement and rate design for Marco Island

Harbour Woods Civic Association:

Harbour Woods Civic Association has not yet filed testimony but is in the process of preparing testimony as the result of evidence of lead contamination at SSU's Beacon Hills water system that is now coming to light. Harbour Woods will seek permission to file testimony related to the lead contamination as soon as it has sufficient data to prepare the testimony.

In addition to those witnesses prefiling testimony, the intervening parties may subpoena a number of persons in relation to a mismanagement penalty associated with SSU's attempts to pressure the Public Service Commission through ex parte communications initiated through the Executive Department of the State of Florida. These witnesses may include: Commerce Secretary Charles Dusseau, Department of Environmental Protection Secretary Virginia Wetherall, Karl Koch, chief-of-staff to Lt. Gov. MacKay. Additionally, Harbour Woods may find it necessary to subpoena one or more employees of the Duval County Health Department in relation to the Beacon Hills' lead contamination issue.

STATEMENT OF BASIC POSITION

All parties, except Concerned Citizens and East County (which take "no position" on the rate structure issue), take the position that uniform rates, for systems that are not physically interconnected by actual pipes and which do not reflect the actual costs to serve the customers of each system, facility or service area, are unduly discriminatory in violation of the Florida Statutes

and constitute a taking of private property for public use in violation of the Fifth Amendment to the United States Constitution for those customers forced to support the utility services of other customers through involuntary rate subsidies. Such uniform rates are fundamentally unfair and subvert any conservation effect of the base facility charge rate structure where a customer's bill is subsidized by other customers.

All intervening parties concur with the Office of Public Counsel that the filing of this rate case is almost entirely due to the past decisions of this Commission, including cases in which customers were forced to pay a return to SSU on rate base amounts in which the utility had no "investment" in the legal sense of the word, cases in which customers were not given any benefit from the utility's gains on sale of utility systems, and cases in which present customers were required to pay for future growth through margin of reserve awards.

The intervening parties concur with the Office of Public Counsel that SSU's annual revenues should be reduced by some \$10.3 million.

Issue 1: Is the value and quality of SSU's service satisfactory?

Position: Unsatisfactory as demonstrated by testimony at customer service hearings.

Furthermore, in addition to generalized testimony of poor water taste, appearance and corrosive effect on plumbing and fixtures, the water at SSU's Beacon Hills system has been shown to contain unacceptably high levels of lead.

Issue 2: Should SSU's authorized return on equity reflect its poor quality of service?

Position: Yes. SSU's equity return should be reduced 100 basis points for its generally poor level of quality of service and another 50 basis points in calculating the rates to be charged at Beacon Hills where excessive levels of lead were found and where it appears that SSU failed to meet

state rule requirements for correcting lead levels and timely warning consumers.

Issue 3: Should SSU be assessed a mismanagement penalty for its misconduct associated with eliciting ex parte communications to the Commission from the Executive Office of the Governor and the Commerce Secretary of the State of Florida?

Position: Yes, SSU should be assessed an additional 100 basis point penalty to its authorized return on equity to punish it for its widespread efforts to pressure this Commission through its extensive ex parte communications as well as for its misleading notices to customers and its attempts to interfere with all customers right to counsel.

Issue 4: Should an adjustment be made for SSU's Collier water site purchase?

Position: Marco Island takes the position that rate base should be reduced by \$5,833,617 to reflect the actual cost of the Collier purchase, to remove overhead allocations and to allocate a portion of the purchase price to non-utility property. (Larkin/DeRonne/Woelffer)

Issue 5: Should the rate base at Marco Island be reduced to remove deferred debits and overhead charges from the water source of supply costs?

Position: Rate base should be reduced by \$1,319,227 and amortization expense by \$293,162 to remove the effect deferred debits associated with the source of water supply project for the period 1992-93. (Larkin/DeRonne/Woelffer)

Issue 6: Should SSU be allowed to transfer a Marco Island and Deltona site out of their classifications as property held for future use?

Position: No. Total rate base should be reduced \$235,885 to reflect retention of these properties as property held for future use. (Larkin/DeRonne/Woelffer)

Issue 7: What amount should be allowed in rate base for systems purchased by SSU at less

than book value?

Position: Agree with Public Counsel's position that negative acquisition adjustments should be recognized so that SSU only receives a return on its actual investment. For the Lehigh systems, a negative acquisition adjustment of \$3,873,763 should be made to reflect the fact that SSU's corporate parent purchased all its Lehigh holdings from the Resolution Trust Corporation, including the water and sewer systems, for approximately 40 cents on the dollar.

(Larkin/DeRonne)

Issue 8: Should a revenue adjustment be made to reflect the normalization of test year revenue for weather/rainfall?

Position: Yes, test year revenue should be increased by \$1,937,931. (K. Dismukes)

Issue 9: Should an adjustment to revenue be made for reuse revenue on Marco Island?

Position: Yes, water revenue should be increased by \$183,668 and wastewater reduced by \$13,688. (K. Dismukes/Woelffer)

Issue 10: Should SSU's rate base at Lehigh be reduced to reflect adjustments to land held for future use and for the cost of the land?

Position: Yes. Concerned Citizens and East County concur with Public Counsel's adjustment that the water rate base should be reduced by \$122,035 and sewer by \$272,123. (K. Dismukes)

Issue 11: Should SSU's rate base at Lehigh be reduced to reflect non-used and useful lines constructed by Lehigh Acquisition Corporation?

Position: Yes. Concerned Citizens and East County concur with Public Counsel's adjustment that the water and sewer rate bases and depreciation expense should be reduced to

reflect K. Dismukes' adjustments on her schedule 38.

Issue 12: Should CIAC be imputed in association with assets constructed by Lehigh Corporation?

Position: Yes. CIAC in the amount of \$769,000 should be imputed as reflected in the supplemental testimony of K. Dismukes.

Issue 13: Should SSU's proposed weather normalization clause be adopted?

Position: No. (Hansen, Woelffer, Dismukes)

Issue 14: Should SSU's proposed split of 60%/40% on base facility charge and gallonage charges be approved?

Position: No. The split or allocation at each system or facility should be based on the relationship of fixed versus variable costs at each location and should be designed with the goal of allowing the base facility charge to recover the fixed costs at each location and the gallonage charge the variable costs of production at each location. (Hansen/Woelffer)

Issue 15: What return on equity should SSU be granted?

Position: 10.1 percent pursuant to Public Counsel witness Rothschild's testimony.

Issue 16: Should the new raw water supply site at Marco Island be included in rate base?

Position: No. It appears unlikely that the site will have production facilities in place during 1996 and, therefore, be used and useful during the test period. The cost of the entire 160-acre facility should be removed from rate base.

Issue 17: Should adjustments be made to SSU's filing for its deep injection well on Marco Island?

Position: Yes. (Woelffer)

Issue 18: Are uniform rates “unduly discriminatory” because they do not reflect the costs of providing service at each system, facility or service location?

Position: All parties, except Concerned Citizens and East County, take the position that the proposed uniform rates are unduly discriminatory wherever they deviate by more than 5 percent from the costs of providing service at the system or location in question. (Mann, Hansen, Woelffer)

Issue 19: Are all of SSU’s systems in this filing a “combination of functionally related facilities and land?”

Position: No. With the exception of those few systems that are physically interconnected by pipes so that water or wastewater can be transmitted from one to the other, no systems are functionally related in a manner that operations at one plant have any impact on relevant service operations at another. SSU’s attempts to “tie” its systems together through purchasing, accounting, and management operations, involve functions that neither involve land or facilities.

Issue 20: Are the modified stand-alone rates an acceptable alternative to uniform rates?

Position: All parties, except Concerned Citizens and East County, take the position that any rates or rate structure that require customers from any system to pay more than 5 percent more than their actual cost of service are unacceptable from a fairness and legal perspective. Current application of the proposed uniform rates would often have low-income customers subsidizing the utility services of high-income customers without any regard for their relative income levels. If the Commission finds that it has the legal authority and necessity to provide rate supports to truly needy customers, it should attempt to obtain funding from the state’s general revenue fund or promote a lifeline assistance program similar to United Telephone’s Lifeline Plan. (Hansen)

Issue 21: Will all systems ultimately benefit by obtaining, in turn, subsidies from other systems at times of capital expenditures?

Position: Sugarmill Woods takes the position that such subsidies will never occur during the life of the average retiree/resident who is currently being expected to pay subsidies under the prior and currently proposed uniform rate structures. (Hansen)

Issue 22: Are SSU's classifications of expenditures as to "growth", "regulatory", etc. well-founded and reasonable?

Position: No. SSU's classifications tend to shift most capital expenditures to "regulatory mandate" to give the false impression that the money is being spent in conformance with environmental regulations. (Hansen)

Issue 23: Are SSU's construction forecasts reliable indicators of what the utility will actually construct?

Position: No. SSU's forecasts and subsequent expenditures have been inconsistent in every Sugarmill Woods rate case since 1990. (Hansen)

Issue 24: Does the installation of a 500,000 ground level storage tank and service pump meet the requirements of Citrus County Ordinance No. 86-10?

Position: It appears that a minimum of 600,000 gallons is required to meet the code. (Hansen)

Issue 25: What is the correct wastewater treatment plant capacity to use for calculation of SSU's used and useful percentage at Sugarmill Woods?

Position: 700,000 gallons per day as permitted by DEP, which would bring the used and useful calculation to 51.69 percent. (Hansen)

Issue 26: Is the five year margin reserve appropriate for sewer plant?

Position: No. (Hansen)

Issue 27: Is the three year margin reserve appropriate for water plant?

Position: No. The water plant at Sugarmill Woods has been at 100 percent used and useful since the 1991 test year and SSU has been using up fire protection reserve to cover growth. It appears doubtful, based on SSU's poor history in meeting construction projections, that the new water storage tank and service pumps will be completed at Sugarmill Woods in 1996 as forecast in SSU's MFR's. (Hansen)

Issue 28: Should CIAC be imputed to cover the margin reserve for lines, water and sewer plant?

Position: Yes. This has been the practice in the last two Sugarmill Woods rate cases and there are no circumstances warranting a change from this practice. (Hansen)

Issue 29: Has SSU's sewer main extension charge of \$280 under the heading of "present charges" been approved by PSC order?

Position: It appears that this charge has never been approved by PSC order. (Hansen)

Issue 30: Will SSU be required to make refunds of prepaid CIAC to Sugarmill Woods lot owners who will have built a house on their lot as of the date of the PSC order in this case?

Position: Refunds should be made to Sugarmill Woods lot owners who have prepaid their CIAC. (Hansen)

Issue 31: Should SSU be allowed to use a hydraulic analysis to determine the used and useful percentages for distribution lines at Pine Ridge, Citrus Springs, Marion Oaks and Sunny Hills?

Position: No. (Hansen)

Issue 32: Will SSU's Water Conservation Proposal for Targeted Communities save 142,788,000 gallons a year and is the price of \$275,440 cost effective?

Position: No. (Hansen)

Issue 33: Is the average unaccounted for water of 10.9 percent for uniform plants for 1994 acceptable?

Position: No. (Hansen)

Issue 34: Should SSU be allowed to use the 1994 maximum day of water pumped with a three year margin reserve or would the use of the five highest pumping days in the maximum month be more accurate and representative of actual conditions?

Position: Five maximum days in the maximum usage month. (Hansen)

Issue 35: Is SSU's Price Elasticity program practical as a water conservation proposal?

Position: No. It is inequitable and imposes too many hardships on low income customers. (Hansen)

Issue 36: Should SSU have a program to upgrade water sources?

Position: Yes. It appears that SSU has purchased numerous systems where well water quality may have been compromised to save money on well drilling and construction. These early "savings" may have resulted in the need to install and maintain special treatment facilities to remove iron. (Hansen)

Issue 37: Has SSU exceeded the legal requirements for lead contamination and other pollutants at its Beacon Hills water system in Duval County?

Position: Harbour Woods takes the position that SSU has exceeded the lead contamination

allowance on all or a portion of its Beacon Hills water system since at least late-1994.

Issue 38: Has SSU fully complied with the Florida Administrative Code and Duval County Health Department's requirements for notifying its water customers at the Beacon Hills water system of the presence of lead contamination?

Position: No.

Issue 39: Should SSU be required to use a "stand-alone" cost of debt calculation for Marco Island based on the 1990 and 1992 Series bonds issued by Collier County?

Position: Yes, reflecting the lower cost rates of these bonds would result in a correct rate of 10.11 percent versus the system rate of 10.32 percent calculated by SSU. The savings to Marco Island customers would be \$99,315 annually in lower interest costs. (Woelffer)

Issue 40: Has SSU correctly calculated its 1996 water revenues at Marco Island?

Position: No. SSU has understated its revenues at Marco Island. (Woelffer)

Issue 41: Are the price elasticity used by SSU for Marco Island correct?

Position: No. SSU's calculations understate the sales and resulting revenues it is likely to receive from its customers at Marco Island. (Woelffer)

Issue 42: Is SSU's proposed weather normalization clause appropriate for Marco Island?

Position: No. Historical data do not support the variations claimed by SSU to necessitate the clause. Additionally, the clause would likely confuse customers at Marco Island and at other systems. Lastly, the clause is merely a mechanism for shifting revenue or "business risks" from the utility, or business, on to the backs of its customers. (Woelffer)

Issue 43: Are SSU's claimed expenses for the provision of services at Marco Island reasonable and prudent?

Position: No. (Woelffer)

Issue 44: Is the amortization of \$1,465, 810 of expense for Marco Island water supply studies appropriate?

Position: No. Reasonable and prudent costs associated with these studies should be capitalized and depreciated over a period of forty years. (Woelffer)

Issue 45: Was SSU's purchase of the Collier Pits necessary and was the amount paid reasonable and prudent?

Position: No. (Woelffer)

Issue 46: Is SSU's calculation for used and useful percentages for water and sewer lines at Marco Island correct?

Position: No. SSU's claim of 100 percent used and useful for the distribution and collection lines is based solely on the PSC's erroneous decision in the 1992 rate case. Development at Marco Island is less than fifty percent built out, with the result that current SSU customers there are paying for SSU's investment to serve future customers. SSU needs to develop appropriate CIAC charges and AFPI charges and be granted a used and useful calculation of less than fifty percent that appropriately reflects the capital requirements of its existing customers. (Woelffer)

Issue 47: Has SSU used the appropriate peak demand in calculating the appropriate used and useful calculation for water plant?

Position: No. SSU's calculation overstates the used and useful calculation of water treatment plant. (Woelffer)

Issue 48: Is SSU correctly treating revenue adjustments from the reuse projects on Marco Island?

Position: No. (Woelffer)

Issue 49: Is the \$209,000 of Minnesota Power's shareholder expenses allocated to SSU's customers appropriate?

Position: No. (Woelffer)

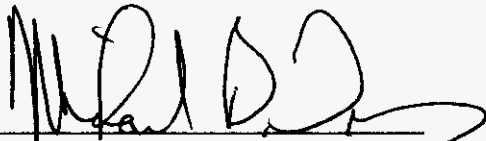
Issue 50: Is SSU's inclusion of the reuse projects on Marco Island as 100 percent used and useful in the wastewater rate base appropriate?

Position: No. (Woelffer)

LEGAL ISSUE

Issue: Are uniform rates as proposed by SSU in the instant case either statutorily legal or constitutional?

Position: All parties, except Concerned Citizens and East County, take the position that uniform rates are not statutorily allowable because they charge for capital costs not used and useful and providing service and for expenses not necessary in the provision of services and because they are unduly discriminatory amongst customer groups. Furthermore, the parties take the position that the uniform rates are unconstitutional because they are a "taking" in violation of the Fifth Amendment to the United States Constitution.


Michael B. Twomey

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing has been furnished by

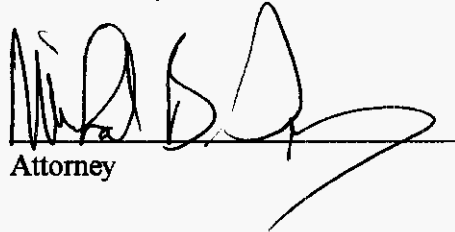
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