

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of SOUTHERN)	DOCKET NO. 880520-WS
STATES UTILITIES, INC. for a rate)	ORDER NO. 22113
increase in Marion County.)	ISSUED: 10-31-89
)	

ORDER VACATING AUTOMATIC STAY

BY THE COMMISSION:

On June 5, 1989, this Commission granted increased water and sewer rates to Southern States Utilities, Inc. (utility) by Order No. 21322. The Office of Public Counsel filed a Motion for Reconsideration on June 20, 1989. On September 19, 1989, by Order No. 21907, the Commission denied the Motion for Reconsideration. On October 19, 1989, the Office of Public Counsel filed a Notice of Appeal in the First District Court of Appeals.

Pursuant to the provisions of Rule 9.310(2), Rules of Appellate Procedure, the Notice of Appeal by the Office of Public Counsel operates as an automatic stay pending review.

The provisions of Rule 25-22.061(3)(a), Florida Administrative Code, provide that the Commission shall vacate such automatic stay upon motion by the utility and the posting of a good and sufficient bond or corporate undertaking. Additionally, the provisions of Rule 25-22.061(5), Florida Administrative Code, provide that motions to vacate an automatic stay may be ruled upon by the Prehearing Officer. The utility's Motion to Vacate the Automatic Stay was filed October 26, 1989. The Motion alleges that its customers were billed at new rates in August under the new bi-monthly billing cycle. The next bills are due for mailing by the utility on November 1, 1989. Absent a Commission order vacating the automatic stay, a proration would be required.

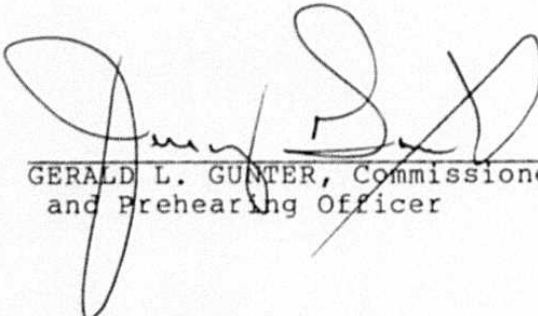
The utility states that it is authorized to represent that the Office of Public Counsel does not oppose the lifting of the stay provided the utility submits the appropriate corporate undertaking. Attached to its Motion as Exhibit 1 is an executed corporate undertaking whereby the utility promises to refund to its customers any and all monies, collected in this docket, with interest, that are found not to be lawful by virtue of a final order and mandate of the First District Court of Appeal.

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The Motion to Vacate the Automatic Stay and attached corporate undertaking meet the requirements of Rule 25-22.061(3)(a), Florida Administrative Code. It is therefore appropriate to lift the stay conditioned upon the corporate undertaking which is attached to the Motion as Exhibit 1. It is therefore

ORDERED by the Florida Public Service Commission that the automatic stay be and hereby is vacated based upon motion and the corporate undertaking filed by Southern States Utilities, Inc.

By ORDER of Commissioner Gerald L. Gunter, Prehearing Officer, this 31st day of October, 1989.



GERALD L. GUNTER, Commissioner
and Prehearing Officer

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