

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Notice of Abandonment of) DOCKET NO. 940222-WU
Water System Serving Canal Point) ORDER NO. PSC-94-0584-FOF-WU
in Palm Beach County by) ISSUED: May 18, 1994
SOUTHEASTERN STATES UTILITIES,)
INC.)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
LUIS J. LAUREDO

ORDER ACKNOWLEDGING ABANDONMENT OF
SOUTHEASTERN STATES UTILITIES'
CANAL POINT WATER SYSTEM

BY THE COMMISSION:

BACKGROUND

Southeastern States Utilities, Inc. (Southeastern or the utility) is a Class C utility located in Palm Beach County that serves the town of Canal Point near Lake Okeechobee. Since 1976, the system has received bulk water service from the City of Pahokee through a master meter. The 1993 Annual Report indicates that the system serves 224 customers with an annual net income of \$3,657.

The utility's 1993 Annual Report also indicated a 48.5% level of unaccounted-for-water. In January of this year, the utility notified the Commission that the City of Pahokee would be terminating service to the utility in 90 days. The City of Pahokee stated in its letter that service would be discontinued because the utility had failed to make sufficient payments to the City for water service for the past six months and had been unable to contact the utility owner for a response to the problem of unaccounted-for-water. However, since that time, we have received assurances from the utility owner and the City Manager that service to the utility's customers would not be terminated provided that some type of activity toward a resolution of the situation was forthcoming.

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FPSC-RECORDS/REPORTING

On February 23, 1994, William Abrams, as president of Southeastern, filed a notice of abandonment of the water system serving Canal Point in Palm Beach County. In response to a Staff request, Mr. Abrams filed a supplement to the notice on March 14, 1994. A hearing date was set for April 22, 1994 in Palm Beach County Circuit Court in order to appoint a receiver for the system.

ABANDONMENT OF THE SYSTEM

Southeastern's March 1, 1994 Notice of Abandonment and March 14, 1994 Supplement comply with the requirements of Rule 25-20.090, Florida Administrative Code, in that the utility has provided its name and address, contact person, the location of the utility's books and records, the date of the notice, the date the utility will be abandoned, which system is to be abandoned, the reason for the abandonment, and a statement of the status of the utility in regard to any outstanding citations or violations with the Department of Environmental Protection. Despite the proposed abandonment of the system, pursuant to Rule 25-30.110(3), Florida Administrative Code (F.A.C.), Southeastern was obligated to file an annual report for 1993. On March 29, 1994, Mr. Abrams filed the 1993 annual report for the utility with the Commission.

When we addressed the utility's Notice of Abandonment at our Agenda Conference on April 19, 1994, a receiver had not yet been appointed. Therefore, this docket will remain open in order to recognize the receiver once one has been appointed.

1993 REGULATORY ASSESSMENT FEES

Pursuant to Sections 350.113 and 367.145, Florida Statutes, and Rule 25-30.120(1), Florida Administrative Code, each utility shall remit a regulatory assessment fee based upon its gross operating revenue. These provisions also require penalties for the failure to pay the fee. On March 23, 1994, Southeastern filed a 1993 Water Utility Regulatory Assessment Fee Return. The return included a calculation by the utility of fees due for 1993, which amount to \$4,997.05. In a letter submitted on the same date, the utility stated that it was unable to pay the amount due and attached a balance sheet to support its claim. Rule 25-30.120, Florida Administrative Code, allows a utility to request an extension of 30 days in order to remit the fees. The utility has not asked for an extension, nor does it appear that a 30-day extension would alleviate the underlying reason for non-payment.

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The utility's preliminary information indicates that a fee is due. We find that neither Southeastern's apparent inability to pay, nor the pending abandonment proceedings eliminates the utility's responsibility for payment of the fees. Payment of the regulatory assessment fees is a statutory obligation. Neither statute nor administrative rule allow for a waiver of the regulatory assessment fees. Furthermore, Southeastern's obligation to pay the fees arose prior to the abandonment of the utility. Therefore, the utility, not the potential receiver, is responsible for the fees. Just as Southeastern was required to file a 1993 annual report, Southeastern remains obligated to pay the regulatory assessment fees which accrued prior to the notice of abandonment.

Therefore, we find that Southeastern States Utilities, Inc. is required to pay the appropriate regulatory assessment fees. This docket shall remain open in order to verify the utility's payment of the 1993 regulatory assessment fees.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the abandonment of the Canal Point water system owned by Southeastern States Utilities, Inc., is hereby acknowledged. It is further

ORDERED that Southeastern States Utilities, Inc. shall be responsible for paying the appropriate regulatory assessment fees for 1993. It is further

ORDERED that this docket shall remain open in order to acknowledge the appointment of a receiver and verify the collection of the 1993 regulatory assessment fees.

By ORDER of the Florida Public Service Commission, this 18th day of May, 1994.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay J. J. J.
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.