

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate increase in Brevard, Charlotte/Lee, Citrus, Clay, Duval, Highlands, Lake, Marion, Martin, Nassau, Orange, Osceola, Pasco, Putnam, Seminole, Volusia, and Washington Counties by SOUTHERN STATES UTILITIES, INC.; Collier County by MARCO SHORES UTILITIES (Deltona); Hernando County by SPRING HILL UTILITIES (Deltona); and Volusia County by DELTONA LAKES UTILITIES (Deltona).

DOCKET NO. 920199-WS
ORDER NO. PSC-97-1078-PCO-WS
ISSUED: September 15, 1997

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
DIANE K. KIESLING
JOE GARCIA

ORDER REQUIRING REVISED REFUND/SURCHARGE REPORT
AND EXTENDING TIME FOR FILING BRIEFS

BY THE COMMISSION:

Background

On May 11, 1992, Florida Water Services Corporation, formerly known as Southern States Utilities, Inc. (FWSC or utility), filed an application to increase the rates and charges for 127 of its water and wastewater service areas regulated by this Commission. By Order No. PSC-93-0423-FOF-WS, issued March 22, 1993, the Commission approved an increase in the utility's final rates and charges, basing the rates on a uniform rate structure.

On April 6, 1995, Order No. PSC-93-0423-FOF-WS was reversed in part and affirmed in part by the First District Court of Appeal. Citrus County v. Southern States Utils., Inc., 656 So. 2d 1307

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

(Fla. 1st DCA 1995). On October 19, 1995, Order No. PSC-95-1292-FOF-WS was issued, Order Complying with Mandate, Requiring Refund, and Disposing of Joint Petition (decision on remand). By that Order, FWSC was ordered to implement a modified stand-alone rate structure, develop rates based on a water benchmark of \$52.00 and a wastewater benchmark of \$65.00, and to refund accordingly. On November 3, 1995, FWSC filed a Motion for Reconsideration of Order No. PSC-95-1292-FOF-WS. At the February 20, 1996, Agenda Conference, we voted, inter alia, to deny FWSC's motion for reconsideration.

On February 29, 1996, subsequent to our vote on the utility's motion for reconsideration but prior to the issuance of the order memorializing the vote, the Supreme Court of Florida issued its opinion in GTE Florida, Inc. v. Clark, 668 So. 2d 971 (Fla. 1996). By Order No. PSC-96-0406-FOF-WS, issued March 21, 1996, after finding that the GTE decision may have an impact on the decision in this case, we voted to reconsider on our own motion, the entire decision on remand.

By Order No. PSC-96-1046-FOF-WS, issued August 14, 1996, we affirmed our earlier determination that FWSC was required to implement the modified stand-alone rate structure and to make refunds to customers. However, we determined that FWSC could not impose a surcharge to those customers who paid less under the uniform rate structure. The utility was ordered to make refunds (within 90 days of the issuance of the order) to its customers for the period between the implementation of final rates in September, 1993, and the date that interim rates were placed into effect in Docket No. 950495-WS. On June 17, 1997, the First District Court of Appeal issued its opinion in Southern States Utils., Inc. v. Florida Public Service Comm'n, reversing the Commission's order implementing the remand of the Citrus County decision. 22 Fla. L. Weekly D1492 (Fla. 1st DCA 1997).

By Order No. PSC-97-1033-PCO-WS, issued August 27, 1997, we required FWSC to provide an exact calculation by service area of the potential refund and surcharge amounts with and without interest as of June 30, 1997. This information was to be provided to staff and the parties by August 29, 1997. We also allowed all parties to file briefs by September 30, 1997 on the appropriate action the Commission should take in light of the Southern States decision.

On August 28, 1997, the utility filed a refund/surcharge report with the Division of Records and Reporting. Based upon a review of the report, we have identified several concerns which must be addressed. This Order addresses our concerns with FWSC's refund/surcharge report.

Revised Refund/Surcharge Report

Pursuant to the requirements set forth in Order No. PSC-97-1033-PCO-WS, the utility filed a report with our Division of Records and Reporting on August 28, 1997. Upon completion of a review of the report, we find that we have the following concerns:

1. both a refund amount and a surcharge amount are indicated for several service areas for the same service (water/wastewater);
2. there is no amount of surcharge indicated for Florida Central Commerce Park;
3. there are no supporting schedules for FWSC calculations;
4. there were no explanations for the positive/negative references used for the refund/surcharge amounts in the report; and
5. negative refunds and/or a positive surcharges were indicated for several service areas, inconsistent with other amounts in the respective columns.

The utility must address these concerns. Therefore, FWSC shall provide revised reports to staff and all of the parties by September 16, 1997. The revised report shall include explanations that detail the calculations of surcharges/refunds by service area. FWSC shall also include specific examples and calculations where necessary. The four different time periods which should be addressed in FWSC's calculations and explanations are:

1. September 15, 1993, the date uniform rates became effective, through December 12, 1993, the date the 1993 index became effective;
2. December 12, 1993 through July 25, 1994, the date the 1994 pass-through and index became effective;

3. July 25, 1994 through September 16, 1994, the date the rates of Docket No. 930880-WS became effective; and
4. September 16, 1994 through January 23, 1996, the date interim rates of Docket No. 950495-WS became effective.

For the Spring Hill service area, a separate calculation shall be performed for the period January 23, 1996 through June 14, 1997, the date new rates became effective in Hernando County. This amount should not be combined with the calculations addressed in (1) through (4) above. This amount will be addressed separately, as discussed in Order No. PSC-97-1033-PCO-WS. Therefore, it is imperative that this amount be contained in a separate calculation and shown on a separate spreadsheet.

In the revised report, where amounts for both a refund and a surcharge are provided, the utility shall provide a detailed explanation as to why both amounts are shown for the same service area. If there are refund and surcharge amounts provided for more than one service area, explanations shall be provided for each service area. For the Florida Central Commerce Park service area, we believe that an amount of surcharge should be indicated. If FWSC does not show an amount in the revised report, an explanation shall be provided as to why any potential surcharge, if ordered, would not be applicable to this service area.

In reviewing the August, 1997 report, we discovered that, in columns where the majority of amounts appear positive, there are amounts in parenthesis, and in columns where the majority of amounts appear in parenthesis, there are positive amounts. In this regard, the report is confusing. Accordingly, FWSC shall provide footnotes to explain why some refunds are shown as negative numbers and some are shown as positive. The same explanation is necessary for the surcharge amounts.

In Order No. PSC-97-1033-PCO-WS, we allowed all parties to file briefs as set forth in the body of that order, by September 30, 1997. As this Order requires the utility to provide a revised refund/surcharge report, the time to file briefs shall be extended by seven days to October 7, 1997.


Based on the foregoing, it is

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ORDERED by the Florida Public Service Commission that Florida Water Services Corporation shall provide a revised refund/surcharge report with explanations as outlined herein to Commission Staff and the parties by September 16, 1997. If is further

ORDERED that the time for filing briefs as outlined in Order No. PSC-97-1033-PCO-WS, is extended until October 7, 1997.

By ORDER of the Florida Public Service Commission this 15th day of September, 1997.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.