

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for) DOCKET NO. 911212-WU
amendment of Certificate No.) ORDER NO. PSC-92-0458-FOF-WU
66-W to include Fountains) ISSUED: 06-05-92
System in Osceola County by)
SOUTHERN STATES UTILITIES,)
INC.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, CHAIRMAN
SUSAN F. CLARK
J. TERRY DEASON
LUIS J. LAUREDO

ORDER AMENDING CERTIFICATE TO INCLUDE ADDITIONAL
TERRITORY, AND CLOSING DOCKET

BY THE COMMISSION:

BACKGROUND

Southern States Utilities, Inc. (SSUI) is a Class A utility which provides water and wastewater service in counties regulated by this Commission, including several small systems in Osceola County. According to SSUI's 1990 annual report, water revenue for the company totalled \$5,140,000, and water net operating income was \$531,000. A total of approximately 30,000 residential and general service customers were served during the period.

On December 18, 1991, SSUI filed an application for an amendment of its Certificate No. 66-W to include The Fountains, which is a new subdivision in Osceola County. The Fountains will ultimately add 123 equivalent residential connections (ERCs) to the utility's service area. SSUI's application is in compliance with Section 367.045, Florida Statutes, and other applicable statutes and rules, to the extent the following are contained in the application:

- 1) A check in the amount of \$150 which, upon calculation, equates to the correct filing fee as prescribed by Rule 25-30.020, Florida Administrative Code;
- 2) Maps depicting the service territory and utility system, as well as a territorial description, as required by Rule 25-30.036(1)(e), (f) and (i), Florida Administrative

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Code. The territory description is appended to this Order as Attachment A;

- 3) An affidavit that the utility has tariffs and annual reports on file with this Commission pursuant to Section 367.045, Florida Statutes;
- 4) Adequate proof of compliance with noticing provisions, including noticing the customers in the proposed territory, as required in Rule 25-30.030, Florida Administrative Code.

No objections to the notice of application have been received, and the time for filing such has expired.

However, SSUI has not, as yet, provided evidence that the utility owns the land upon which the treatment system is located, as required by Rule 25-30.036(1)(d), Florida Administrative Code. At this time the utility holds a quit claim deed to the property which is insufficient proof of ownership. The utility must obtain clear title to the land in order to obtain either a warranty deed or title insurance, which would suffice as proof of ownership. In the alternative, the Commission will also accept a long term (99-year) lease in lieu of proof of treatment site land ownership. The process to obtain clear title will be time consuming because the Fountains' developer and the land thereto has succumbed to bankruptcy, and the bank holding the defaulted mortgage on the development has failed. The assets, including the utility, have been acquired by the Resolution Trust Company (RTC). The firm of Kilburn-Young Asset Management Corporation has been appointed by the RTC to manage the bank's assets, and it has the authority to release the plant site property from the bankruptcy proceeding. It will take time to complete the administrative procedures necessary to obtain the property's release from the bankruptcy proceedings and to provide this Commission with proof of ownership as required.

Since we do not believe that the approval of the amendment to SSUI's certificate should be delayed due to circumstances which are beyond the utility's control, we are accepting the utility's assurances that it will provide this Commission with an appropriate title insurance policy, warranty deed, or a long-term (99 year) lease within 12 months of the date of issuance of this Order.

SSUI's sole business is providing water and wastewater services to its customers. SSUI has continued to demonstrate its technical and financial ability to provide adequate service to its

certificated territories, and it is expected to provide such service in the proposed territory. The utility has assured this Commission that there is a need for service in the proposed territory, and the utility will provide the needed service in a manner consistent with the approved local comprehensive plan.

The proposed extension will be internally financed by the utility as necessary, along with a plant capacity charge of \$150 per ERC as currently approved in its tariffs, including a meter installation charge of \$75 per ERC. Additionally, the developer, American International Land Development Corporation, will contribute the entire distribution system to SSUI when it is completed. The plant transmission and distribution system is currently under construction, and the system has not been cited by the Department of Environmental Regulation (DER) for any violations.

The utility began serving customers in the proposed territory without charging for that service in 1991 prior to receiving authorization from this Commission. The utility received a DER construction permit for the system in 1987, prior to the utility's application for an amendment to its certificate from this Commission. The utility furnished us with a developer's agreement in 1990, and a construction permit for the distribution system was issued in August 1990. The utility had difficulties in obtaining a firm commitment from the developer, and it also experienced other administrative problems which resulted in delays in making an application to this Commission to include the additional territory within its certificated service area. However, at present we do not find it appropriate to show cause the utility for this, but SSUI should be forewarned that it may be fined or penalized for such activities if they occur in the future.

Upon consideration of the above, we find that it is in the public interest to grant SSUI's application for extension of its service territory. The utility has filed revised tariff sheets which reflect the amended territory description and the tariff sheet applicable to the Fountains. SSUI shall, therefore, return its certificate to this Commission so that an appropriate entry can be made thereon within 30 days of issuance of this Order. The utility shall also file an appropriate title insurance policy, warranty deed, or 99-year lease within 12 months of the date of issuance of this Order, in order to provide sufficient proof of ownership of the land upon which the system is located as required.

RATES AND CHARGES

In accordance with Rule 25-9.004, Florida Administrative Code, SSUI shall apply its presently approved rates, customer deposits, service availability, and miscellaneous service charges to customers within the territory granted herein.

The rates for the Fountains are recommended as follows:

RESIDENTIAL AND GENERAL SERVICE RATES

<u>Meter Size</u>	<u>Rate</u>
5/8" X 3/4"	\$ 11.34
Full 3/4"	17.01
1"	28.36
1-1/2"	56.71
2"	90.72
3"	181.47
4"	283.53
6"	567.06

Gallorage Charge: \$2.33 per 1,000 gallons

For the purpose of establishing a system count, the system will be named as follows:

SSUI The Fountains WTP
SSUI The Fountains Transmission and Distribution System

It is, therefore,

ORDERED by the Florida Public Service Commission that the application of Southern States Utilities, Inc., for the territory depicted in Attachment A to this Order, is hereby granted. It is further

ORDERED that Southern States Utilities, Inc. shall file with this Commission, within 12 months of the date of this Order, a warranty deed, 99-year lease, or an appropriate title insurance policy which will suffice as proof of ownership of the land upon which the system is located. It is further

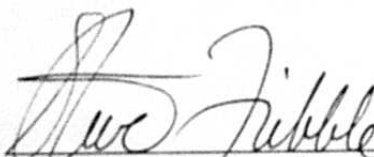
ORDERED that Southern States Utilities, Inc. shall return Certificate No. 66-W to this Commission within 30 days of the date of this Order so that an appropriate entry can be made to reflect the additional territory granted herein. It is further

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ORDERED that, in accordance with Rule 25-9.004, Florida Administrative Code, Southern States Utilities, Inc. shall only charge its approved rates and charges to customers within the additional territory granted herein. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 5th day of June, 1992.



STEVE TRIBBLE, 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 120.59(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 wastewater 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.

ATTACHMENT A

SOUTHERN STATES UTILITIES, INC.

TERRITORY DESCRIPTION

The following described lands located in portions of Sections 18, 19, Township 26 South, Range 29 East, Osceola County, Florida:

Section 18

The South 1/2 of the Southeast 1/4 and the South 1/2 of the North 1/2 of the Southeast 1/4 of said Section 18

also

The East 1/2 of the Southeast 1/4 of the Southwest 1/4 and the Southeast 1/4 of the Northeast 1/4 of the Southwest 1/4 of said section 18

Section 19

The North 1/2 of the Northeast 1/4 and the North 1/2 of the South 1/2 of the Northeast 1/4 of said Section 19

also

The East 1/2 of the Northeast 1/4 of the Northwest 1/4 and the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of said section 19