

ORIGINAL
FILE COPY

TESTIMONY OF BRENDA BALL
DEPARTMENT OF ENVIRONMENTAL REGULATION

FILED ON BEHALF OF
THE STAFF OF THE FLORIDA PUBLIC SERVICE COMMISSION

FILED: OCTOBER 12, 1992

SYSTEMS: APACHE SHORES, CITRUS SPRINGS, GOLDEN TERRACE, GOSPEL ISLAND,
OAK FOREST, PINE RIDGE, POINT O' WOODS, ROLLING GREEN, ROSEMONT WATER SYSTEMS

COUNTY: CITRUS

DOCKET NO. 920199-WS - APPLICATION FOR A RATE INCREASE BY
SOUTHERN STATES UTILITIES, INC.

DOCUMENT NUMBER-DATE
11987 OCT 12 1992
FPSC-RECORDS/REPORTING

DIRECT TESTIMONY OF BRENDA BALL

1
2 Q. Please state your name and business address.

3 A. My name is Brenda Ball and my business address is 3804 Coconut Palm
4 Drive, Tampa, FL 33619.

5 Q. Please state a brief description of your educational background and
6 experience.

7 A. I have a Bachelors degree in Biology (1986) from Florida Southern
8 College in Lakeland, and one year with DER performing inspections of public
9 drinking water facilities to insure their compliance with the Florida
10 Administrative Code.

11 Q. By whom are you presently employed?

12 A. I am employed by the State of Florida, Department of Environmental
13 Regulation (DER).

14 Q. How long have you been employed with the Department of Environmental
15 Regulation and in what capacity?

16 A. I have been employed for one year as mentioned above.

17 Q. What are your general responsibilities at the Department of
18 Environmental Regulation?

19 A. My responsibilities include performing sanitary surveys of water plants,
20 compliance inspections of water plants, reviewing water chemical and
21 bacteriological reports, preparing enforcement cases against utilities and
22 monitoring and investigating complaints against utilities. I also conduct
23 lead and copper workshops.

24 Q. Are you familiar with Apache Shores, Citrus Springs, Golden Terrace,
25 Gospel Island, Oak Forest, Pine Ridge, Point O' Woods, Rolling Green, and

1 Rosemont water systems in Citrus County?

2 A. I have familiarized myself with the files related to these systems.

3 Q. Do the systems have current permits from the DER?

4 A. Yes, except Rolling Green. It is now merged with the Rosemont system.

5 Q. Are the plants in compliance with their permits?

6 A. Yes, the plants are in compliance with their permits, except as stated
7 later in this testimony.

8 Q. Are the utility's treatment facilities and distribution systems
9 sufficient to serve its present customers?

10 A. Yes.

11 Q. Does the utility maintain the required 20 PSI minimum pressure
12 throughout the distribution system?

13 A. The files in the department do not show any pressure deficiencies.

14 Q. Does the utility have an adequate power source in the event of a power
15 outage?

16 A. The files do not clearly show which systems do not have auxiliary power
17 sources. It should be pointed out that auxiliary power is not required until
18 the system serves 350 or more persons.

19 Q. Are the utility's water wells located in compliance with Section 17-
20 555.312, Florida Administrative Code?

21 A. Yes.

22 Q. Does the utility have certified operators as required by Chapter 17-602,
23 Florida Administrative Code?

24 A. Yes, the utility's plant staffing is sufficient.

25 Q. Has the utility established a cross-connection control program in

1 | accordance with Section 17-555.360, Florida Administrative Code?

2 | A. The files do not indicate any information on cross-connection control
3 | programs for these systems.

4 | Q. Is the overall maintenance of the treatment plant and distribution
5 | facilities satisfactory?

6 | A. Yes.

7 | Q. Does the water produced by the utility meet the state and federal
8 | maximum contaminant levels for primary and secondary water quality standards?

9 | A. Not at Point O' Woods, because the iron levels have commonly exceed the
10 | maximum contaminant level (MCL) since at least February, 1991. The utility
11 | is currently under a consent order with the Department to add iron filters to
12 | the system.

13 | Q. Does the utility monitor the organic contaminants listed in Section
14 | 17-550.410, Florida Administrative Code?

15 | A. Yes.

16 | Q. Do recent chemical analyses of raw and finished water, when compared to
17 | regulations, suggest the need for additional treatment?

18 | A. Yes, for Point O' Woods. Iron filters need to be added as a result of
19 | the consent order mentioned above.

20 | Q. Does the utility maintain the exemptions chlorine residual or its
21 | equivalent throughout the distribution system?

22 | A. Yes.

23 | Q. Are the plant and distribution systems in compliance with all the other
24 | provisions of Title 17, Florida Administrative Code, not previously mentioned?

25 | A. The Citrus Springs plant was required to submit a lead and copper

1 | sampling plan no later than June 30, 1992. The DER received the plan, but it
2 | was deficient in four areas. The Department notified Citrus Springs in a
3 | letter dated June 16, 1992. As of September 25, 1992, no information has been
4 | received by this office to complete this EPA required plan. As DER has only
5 | a draft lead and copper rule, this is a violation of the EPA's lead and copper
6 | rule.

7 | Golden Terrace is presently exceeding the MCL for iron. The Department
8 | is working with the utility to sign a consent order agreement to expedite
9 | correction of this violation. If the consent order is not signed, a notice
10 | of violation will be issued.

11 | A loss of chlorination capability alarm is needed at the Apache Shores'
12 | plant, per Rule 17-555.320(5)(a), F.A.C. At Point O' Woods, during the
13 | process of drilling a new 10" well on September 18, 1992, a sinkhole developed
14 | around the casing and caused both this new well and the main system well to
15 | collapse. Back-up wells could not be used because the utility's hydrologist
16 | feared causing other sinkholes and collapsing all the wells. Initially,
17 | bottled potable water was provided to the customers and tanker trucks were
18 | used to provide water to flush toilets. Now, back-up wells are providing
19 | water for sanitary purposes, but bottled water must still be provided for
20 | drinking. The utility reports that it is finishing construction on the new
21 | well to provide potable water to its customers.

22 | Q. Have any of the systems been the subject of any Department of
23 | Environmental Regulation enforcement action within the past two years?

24 | A. Yes. Golden Terrace was issued a warning notice on November 14, 1991
25 | because it was exceeding the MCL for iron. Gospel Island was issued a warning

1 | notice on November 19, 1991 because the system was exceeding the MCL for
2 | manganese. Point O' Woods has been issued a warning notice for exceeding the
3 | MCL for iron.

4 | Q. Do you have anything further to add?

5 | A. No, I do not.

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EXHIBIT BB-1

TITLE: CONSENT ORDER

WITNESS: BRENDA BALL

DEPARTMENT OF ENVIRONMENTAL REGULATION

FILED ON BEHALF OF

THE STAFF OF THE FLORIDA PUBLIC SERVICE COMMISSION

FILED: OCTOBER 12, 1992

SYSTEM: POINT O' WOODS WATER SYSTEM

COUNTY: CITRUS

PAGES: 9

DOCKET NO. 920199-WS - APPLICATION FOR A RATE INCREASE BY
SOUTHERN STATES UTILITIES, INC.

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT : IN THE OFFICE OF THE
OF ENVIRONMENTAL REGULATION, : SOUTHWEST DISTRICT :
 :
Complainant, :
 :
vs. : OGC CASE NO. 92-1613
 :
SOUTHERN STATES UTILITIES, INC. :
1000 COLOR PLACE :
APOPKA, FL 32703 :
 :
Respondent. :

CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Regulation ("Department") and Southern States Utilities, Inc. ("Respondent") to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida charged with the duty to administer and enforce the provisions of the Florida Safe Drinking Water Act, Sections 403.850, et seq., Florida Statutes, and the rules promulgated thereunder, Florida Administrative Code Title 17. The Department has jurisdiction over the matters addressed in this Consent Order.

2. Respondent is a person within the meaning of Section 403.852(5), Florida Statutes.

3. Respondent is the owner and operator of a community

water system Point O' Woods, PWS-ID # 6091422 located at 9699 E. Gospel Island Road, Inverness, Florida.

4. Respondent has failed to maintain iron at or below maximum contaminant levels since February 27, 1991.

Having reached a resolution of the matter, pursuant to Florida Administrative Code Rule 17-103.110(3), Respondent and the Department mutually agree and it is:

ORDERED:

5. Within 30 days of execution of this Consent Order, Respondent shall pay the Department \$950.00 in settlement of the matters addressed in this Consent Order. This amount includes a civil penalty of \$600.00 for alleged violations of Sections 403.860, F.S., and of the Department's rules and \$350.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Payment shall be made by cashier's check or money order. The instrument shall be made payable to the Department of Environmental Regulation and shall include thereon the OGC number assigned to this Order and the notation "Pollution Recovery Fund".

6. Within 30 days of the effective date of this Consent Order, Respondent shall submit all requested information to complete the construction permit application for construction of the necessary modifications to the drinking water system to correct the violations of the MCL for iron.

7. Within 60 days of the issuance of the permit by the

Department, Respondent shall completely construct the modification involving "Iron Filters".

8. Within 20 days after completion of the modification involving Iron Filters, a Certificate of Partial Completion letter shall be submitted to the Department by the engineer of record as provided in Florida Administrative Code Rule 17-555.345.

9. Within 5 days after Department approval of the modification involving Iron Filters, Respondent shall place the modification in service. If the modification in the permit is insufficient to correct the violation, the Department reserves the right to take further enforcement action.

10. Respondent shall continue monthly sampling for iron until 2 consecutive months of satisfactory samples are received by the Department, and receives written notification from the Department that Respondent monthly sampling may cease.

11. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 6, 7, 8, and 9 of this Order. A separate stipulated penalty shall be assessed for each violation of this Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to the "The Department of Environmental Regulation" by cashier's check or money order and shall include thereon the OGC number assigned to this Order and the notation "Pollution Recovery Fund." The Department may make demands for payment at any time after violations occur. Nothing in this

paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 5 of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this paragraph.

12. If any event occurs which causes delay, or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving that the delay was, or will be, caused by the circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by due diligence. Changed economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractual imposed deadlines be a cause beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall promptly notify the Department orally and shall, within seven days of oral notification to the Department, notify the Department in writing of the anticipated length and

cause of the delay, the measures taken, or to be taken, to prevent or minimize the delay, and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated ^{delay} has been, or will be, caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

13. Respondent shall allow all authorized representatives of the Department access to the drinking water system at reasonable times for the purposes of determining compliance with this Consent Order and the rules and regulations of the Department.

14. Entry of this Order does not relieve Respondent of the need to comply with the applicable federal, state or local laws, regulations or ordinances.

15. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

16. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties of up to \$5,000.00 per offense, and criminal penalties.

17. Persons not parties to this Consent Order whose interests are affected by this Consent Order have a right, pursuant to Section 120.57, Florida Statutes, to petition for an administrative hearing on it. The petition must contain the information set forth below, and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida, 32399-2400, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the (persons named) above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, F.S.

The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or

modification of the Department's action or proposed action; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action;

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207, F.A.C.

18. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit the future violation of applicable statutes, or the rules promulgated thereunder.

19. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations outlined in this Consent Order. Respondent waives its right to an administrative hearing pursuant to Section 120.57, Florida Statutes of the terms of this Consent Order. Respondent acknowledges its right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, but waives that right upon signing this Consent Order.

20. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent and the Department.

21. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their directors, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.

22. All plans, reports, penalties, stipulated penalties, costs and expenses, or other documents required by this Consent Order to be submitted to the Department shall be sent to Brenda Ball, Potable Water, Department of Environmental Regulation, Southwest District, 4520 Oak Fair Boulevard, Tampa, FL 33610-7347.

23. If all of the requirements of this Consent Order have not been fully satisfied, Respondent shall not sell or convey

the above-described drinking water system without, at least 14 days prior to such sale or conveyance, (1) notifying the Department of such sale or conveyance, and (2) providing a copy of this Consent Order with all attachments to the new owner.

24. This Consent Order is final agency action of the Department pursuant to Section 120.69, Florida Statutes, and Florida Administrative Code Rule 17-103.110(3), and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon timely filing of a petition this Consent Order will not be effective until further order of the Department.

DONE AND ORDERED THIS 21 day of Sept., 1992, in Tampa, Florida.

FOR THE RESPONDENT:

Bert Phillips
Bert Phillips
Southern States Utilities, Inc.

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to S120.52
Florida Statutes, with the designated Department
Clerk, receipt of which is hereby acknowledged.

Sandra Muelke 09-28-92
Clerk Date

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL REGULATION

Richard D. Garrity
Richard D. Garrity, Ph.D.
Director of District Management

Copies furnished to:

Larry Morgan
Office of General Counsel
Department of Environmental Regulation
2600 Blair Stone Road
Tallahassee, Florida 32399-3400

Kenna Study, DER-Tallahassee

Citrus CPHU

EXHIBIT BB-2

TITLE: WARNING NOTICE

WITNESS: BRENDA BALL

DEPARTMENT OF ENVIRONMENTAL REGULATION

FILED ON BEHALF OF

THE STAFF OF THE FLORIDA PUBLIC SERVICE COMMISSION

FILED: OCTOBER 12, 1992

SYSTEM: GOLDEN TERRACE WATER SYSTEM

COUNTY: CITRUS

PAGES: 2

DOCKET NO. 920199-WS - APPLICATION FOR A RATE INCREASE BY
SOUTHERN STATES UTILITIES, INC.

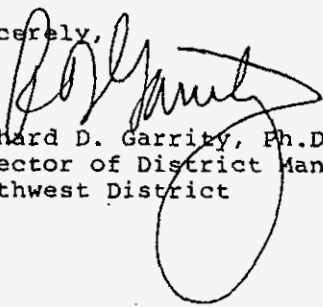
Warning Notice # 91-210PW09-SWD
Golden Terrace Estates

Page Two

Exhibit BB-2
Page 2 of 2

Please direct your response and/or questions to Brenda Ball of
the Drinking Water Section at (813) 623-5561, Extension 318.

Sincerely,



Richard D. Garrity, Ph.D.
Director of District Management
Southwest District

RDG/bbm *ds*

cc: Dawn Durham, Citrus CPHU

Ph.
RT
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate) DOCKET NO. 920199-WS
increase in Brevard, Charlotte/) FILED: 10-12-92
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))

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Prefiled Direct Testimony of Raymond Van Loon, William Darling, Deborah Oblaczynski, William Thiel, John Pope, Lynal DeFalco, Thomas Hamilton, Vincent Seibold, James Maher, Cindy Haynie, Roberto Ansag, Romeo Enage, Miriam Hunt-Boateng, Thomas Cherukara, Peter F. Dentice, Harley W. Young, Peter Screnock, Robert Barker, William C. Dunn, Sandra Andino Sequiera, Robert Glenn, James Grob, Hossein "Nick" Kadivar, Gerald Foster, Charles Hubsch, Charles Houriet, Joe Squitieri, along with attached exhibit JS-1, Brenda Ball, along with attached exhibits BB-1 and BB-2, Neal Schobert, along with exhibit NS-1, and Robert Reining, along with exhibit RR-1, filed in this proceeding on behalf of the Staff of the Florida Public Service Commission on this date, has been furnished by hand delivery to Kenneth A. Hoffman, Esquire, Messer, Vickers, et al., 215 South Monroe Street, First Bank Building, Suite 701, Tallahassee, Florida 32301, and Harold McLean, Esquire, Office of Public Counsel, 111 West Madison Street, Tallahassee, Florida 32399-1400, and by U. S. Mail to Mr. Harry Jones, Cypress and Oak Villages Association of homosassa, 91 Cypress Boulevard West, Homosassa, Florida 32646, and Nassau County Board of Commissioners, c/o Mr. Michael S. Mullin, Esquire, Post Office Box 1010, Fernandina Beach, Florida 32034, this 12th day of October, 1992:


MATTHEW J. FEIL, Senior Attorney

FLORIDA PUBLIC SERVICE COMMISSION
101 East Gaines Street
Tallahassee, Florida 32399-0863
(904) 487-2740 DOCUMENT NUMBER DATE

11937 OCT 12 1992
FPSC-RECORDS/REPORTING