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CABLE GRANDLAW

PLEASE REPLY TO:
TALLAHASSEE

May 9, 1996

HAND-DELIVERED

Blanca S. Bayo, Director
Division of Records and Reporting
Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0870

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

ACK Dear Ms. Bayo:

AFA
APP Enclosed for filing and distribution are the original and sixteen copies of the City
CAF of Keystone Heights', Marion Oaks Homeowners Association's, and Burnt Store
CMU Marina's Petition to Intervene and Request for Oral Argument in the above docket.

CTR Please acknowledge receipt of the above on the extra copy enclosed herein and
EAG return it to me. Thank you for your assistance.

LEG 1

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OPC

RCH

SEC 1

WAS VGK/jei

QTH
RECEIVED & FILED

OA
DOCUMENT NUMBER-DATE

05274 MAY-9 00

FPSC-RECORDS/REPORTING

Yours truly,

Vicki Gordon Kaufman
Vicki Gordon Kaufman

Petition to Intervene
DOCUMENT NUMBER-DATE

05273 MAY-9 00

FPSC-RECORDS/REPORTING

003543

OFFICE OF RECORDS

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for rate)	DOCKET NO. 920199-WS
increase in Brevard, Charlotte/)	
Lee, Citrus, Clay, Duval,)	FILED: May 9, 1996
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))	
)	

THE CITY OF KEYSTONE HEIGHTS', MARION OAKS HOMEOWNERS ASSOCIATION'S AND BURNT STORE MARINA'S PETITION TO INTERVENE

The City of Keystone Heights, the Marion Oaks Homeowners Association, and Burnt Store Marina (Intervenors) hereby request that they be permitted to intervene in this docket. As grounds therefor, Intervenors state:

1. All notices, pleadings and correspondence should be sent to:

Joseph A. McGlothlin
 Vicki Gordon Kaufman
 McWhirter, Reeves, McGlothlin
 Davidson, Rief & Bakas
 117 South Gadsden Street
 Tallahassee, Florida 32301

on behalf of City of Keystone Heights and the Marion Oaks Homeowners Association

and

003544

Darol H. M. Carr
Farr, Farr, Emerich, Sifrit
Hackett and Carr, P.A.
2315 Aaron Street
Port Charlotte, Florida 33949

on behalf of Burnt Store Marina.

Substantial Interests

2. Intervenors are customers of Southern States Utilities, Inc. (SSU).
3. In Order No. PSC-96-0406-FOF-WS, the Commission reconsidered its decision in Order No. PSC-95-1292-FOF-WS, which among other things, addressed rate structure and required SSU to make a refund. Due to the Florida Supreme Court's decision in GTE Florida, Inc., v. Clark, No. 85,776 (Feb. 29, 1996), the Commission reconsidered its final order and asked parties to brief the issues surrounding the impact of the GTE decision on this case.
4. As the Commission is well aware, the Office of Public Counsel, which represents the customers in this case, has determined that it cannot protect and advocate on behalf of all customers on certain issues, such as refund and rate design, where different groups of customers have diverse and conflicting positions in this case.
5. Based on an analogous situation, this Commission waived the 5-day intervention rule (Rule 25-22.039, Florida Administrative Code) and permitted Intervenors to intervene in Docket No. 950495-WS upon retention of the undersigned as counsel.¹

¹ The retention of counsel for Intervenors did not occur until May 3, 1996.

6. Intervenor's seek to address issues in this case for which they had no representation until May 3. Most significantly, unless permitted to intervene herein, certain groups of customers will have no representation on the issue of whether they will be backbilled to effectuate a refund to other customers. It would be difficult to imagine a more fundamental divergence of interest among customer groups. Yet the group of customers most exposed to injury is without representation on this issue. If the Commission is even to consider such an unprecedented action, all groups of affected customers must be represented and afforded due process.² As the Court said in Citizens of Florida v. Mayo, 333 So. 2d, 1, 6 (Fla. 1976):

[T]he rate setting function . . . is best performed when those who will pay . . . are represented

If Intervenor's are not permitted to intervene, they will have no representation with respect to this critical issue.

7. Like the rate structure issue in Docket No. 950495-WS, the refund issue in this docket is one which puts varying groups of customers in conflict with each other. This potential conflict was not known until the entry of the Florida Supreme Court's GTE decision and this Commission's reconsideration order. Order No. PSC-96-0406-FOF-WS. As noted above, despite the conscientious and diligent initiative by Public Counsel to secure representation for all affected interest, appropriate arrangements for outside representation of customers with differing positions could not be made until May 3.

² Intervenor's will shortly file a motion seeking to file a memorandum out of time on the issues raised in Order No. PSC-96-0406-FOF-WS.

8. The Commission's disposition of the implementation of a refund, if any, and other rate structure issues, will affect the substantial interests of Intervenors under the standard set out in Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d DCA 1981). Agrico requires a showing of (1) injury in fact and (2) that such injury is of the type the proceeding is designed to protect. As to the first portion of the Agrico test, Intervenors will clearly be harmed if the Commission implements the refund mechanism advocated by SSU and may be harmed by the ultimate rate design the Commission orders. As to the second part of the test, it is clear that in a rate case proceeding, ratepayers' interests are to be protected. Intervenors' interests will not be protected if they are not represented in this docket.

10. Intervenors are aware that this case has progressed to final hearing and that they were not parties to the proceeding.³ However, as noted above, outside counsel has only recently been retained to represent Intervenors. Perhaps more importantly, the manner in which the required refund will be implemented may greatly impact Intervenors; especially given the fact that SSU advocates collecting money from Intervenors to effectuate a refund to other customers - a result unprecedented in Florida history.

11. Intervenors, as affected customers, are entitled to representation before this Commission.

³ Keystone is, of course, aware that its petition to intervene in this docket was denied, based on other grounds.

Disputed Issues of Material Fact

12. Known disputed issues of material fact include, but are not limited to:
 1. The appropriate implementation mechanism for a refund, if any is made,
 2. The effect of any such mechanism on Intervenors.

Ultimate Facts Alleged

13. It is Intervenors' position that they will be substantially affected by Commission action in this docket, are currently unrepresented, and thus are entitled to intervene. It is further Intervenor's view that backbilling one group of customers to fund a refund to another group of customers is illegal, unduly discriminatory and inequitable.

Statutes

14. The statutes entitling Intervenors to relief are sections 120.57, 366.041, 366.06, 366.07, Florida Statutes.

WHEREFORE, Intervenors request that their Petition to Intervene be granted and that they be accorded full party status.

Vicki Gordon Kaufman

Joseph A. McGlothlin
Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin
Davidson, Rief & Bakas
117 South Gadsden Street
Tallahassee, FL 32301

Attorneys for City of Keystone
Heights and The Marion Oaks
Homeowners Association

Darol H. M. Carr by right

Darol H. M. Carr
Farr, Farr, Emerich, Sifrit
Hackett and Carr, P.A.
2315 Aaron Street
Port Charlotte, FL 33949

Attorney for Burnt Store Marina

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the City of Keystone Heights', Marion Oaks Homeowners Association's and Burnt Store Marina's Petition to Intervene has been furnished by hand delivery* or by U.S. Mail to the following parties of record, this 9th day of May, 1996:

*Lila Jaber, Esq.
FL Public Service Commission
Division of Legal Services
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Mr. Harry C. Jones, President
Cypress and Oak Villages
Association
91 Cypress Boulevard West
Homasassa, Florida 32646

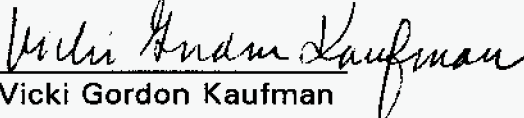
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County Attorney
111 W. Main Street, #B
Inverness, FL 34450-4852

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Tallahassee, Florida 31310

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Tallahassee, FL 32399-1400

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Tallahassee, FL 32302


Vicki Gordon Kaufman