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PLEASE REPLY TO:
TALLAHASSEE

June 10, 1996

HAND-DELIVERED

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

Re: Application by Southern States Utilities, Inc. for rate increase and increase in service availability charges for Orange-Osceola Utilities, Inc. in Osceola County, and in Bradford, Brevard, Charlotte, citrus, Clay, Collier, Duval, Highlands, Lake, Lee, Marion, Martin, Nassau, Orange, Osceola, Pasco, Polk, Putnam, Seminole, St. Johns, St. Lucie, Volusia, and Washington Counties
Docket No. 950495-WS

Dear Ms. Bayo:

Enclosed for filing and distribution are the original and sixteen copies of the City of Keystone Heights and the Marion Oaks Homeowners Association Post-Hearing Statement and Post-Hearing Brief, in the above docket.

I have enclosed a disk containing the Post-Hearing Statement and Post-Hearing Brief entitled "950495.brf", formatted in WordPerfect Version 5.1. Please acknowledge receipt of the above on the extra copy enclosed herein and return it to me. Thank you for your assistance.

Yours truly,

Vicki Gordon Kaufman
Vicki Gordon Kaufman

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by Southern)
States Utilities, Inc. for rate)
increase and increase in service)
availability charges for Orange-)
Osceola Utilities, Inc. in)
Osceola County, and in Bradford,)
Brevard, Charlotte, Citrus, Clay,)
Collier, Duval, Highlands, Lake,)
Lee, Marion, Martin, Nassau,)
Orange, Osceola, Pasco, Polk,)
Putnam, Seminole, St. Johns,)
St. Lucie, Volusia, and Washington)
Counties)
_____)

DOCKET NO. 950495-WS

FILED: JUNE 10, 1996

POST-HEARING STATEMENT

AND

POST-HEARING BRIEF

OF

THE CITY OF KEYSTONE HEIGHTS

AND

THE MARION OAKS HOMEOWNERS ASSOCIATION

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Oaks Homeowners Association

DOCUMENT NO.

06241-96

6/10/96

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by Southern)
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availability charges for Orange-)
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Order No. PSC-95-1327-FOF-WS 1

Preliminary Statement

Pursuant to Rule 25-22.056, Florida Administrative Code, the City of Keystone Heights and the Marion Oaks Homeowners Association file their Post-Hearing Statement of Issues and Positions and their Post-Hearing Brief.¹

Background

On June 28, 1995, SSU filed an application for interim and final water and wastewater rates for its numerous service areas. On August 1, 1995, SSU was directed to file supplemental information concerning Hernando, Hillsborough and Polk counties, though rates for those counties will not be changed in this proceeding.

Order No. PSC-95-1327-FOF-WS denied SSU's interim rate request. SSU filed a supplemental petition for interim relief. The Commission approved interim rates for SSU in Order No. PSC-95-0125-FOF-WS. The final hearing in this case was held on April 29-30, May 1-4, 6-10, 31, 1996.

There are numerous parties to this docket, including the Office of the Public Counsel. Early in the case, Public Counsel advised the Commission that his office had a conflict in representing various customer groups on rate design issues. This conflict arose because some SSU customers support a uniform rate

¹ The following abbreviations are used in this brief. The City of Keystone Heights and the Marion Oaks Homeowners Association are referred to as Keystone/Marion. The Florida Public Service Commission is referred to as the Commission. Southern States Utilities, Inc. is referred to as SSU.

structure while others support a stand-alone rate structure. Public Counsel expeditiously attempted to make arrangements to ensure that the various groups were properly represented in this case.

On May 3 (during the first week of the final hearing), the undersigned were retained to represent Keystone/Marion customers who support a uniform rate structure.² On that same day, the undersigned made an oral motion to intervene at the hearing. Keystone/Marion's oral motion to intervene was granted by the Commission.³ At that time, the Commission found that Keystone/Marion's participation in this docket would be limited to rate structure and service availability issues. (Tr. 1626).⁴

Summary and Overview of Argument

No other service -- including other utility services -- is more essential than the provision of water and wastewater service. Yet, the nature of the industry presents problems and challenges found in no others. While all utility services are capital intensive, this industry is particularly so. This fact necessitates large outlays for plant, which in turn requires access to capital markets on reasonable terms. The industry is subject to

² The interests of customers in favor of stand-alone rates were already represented by counsel for Spring Hill and Amelia Island.

³ The Commission also granted a similar motion to intervene for Burnt Store.

⁴ In its brief, Keystone/Marion has addressed only those rate structure and service availability issues on which it takes a position.

expensive environmental requirements, which means providers of service face unavoidable, significant increases in the cost of doing business. At the same time, the industry is characterized by a multitude of systems, each of which typically serves relatively few customers. As is the case with SSU, sometimes a single corporate entity owns more than one physical system.

A primary difficulty created by the fact of the fixed costs of large investments being spread over few customers is the obvious and fundamental one of basic affordability. Absent measures designed to mitigate "rate shock" and keep the cost of providing service within customers' means, the dilemma at some point takes on critical proportions. When water bills approximate the size of the customer's mortgage, and when customers threaten to resort to private wells in order to escape central water system service, matters are approaching a crisis. Evidence in this case indicates SSU may be nearing such a critical point.

In addition to the basic issue of the level of rates, the situation presents problems in terms of the utility's access to capital markets. Lenders will not provide capital on reasonable terms unless the utility can show a realistic revenue stream from an adequate customer base.

The situation mandates efforts to recognize and attempt to ameliorate the economic problems inherent in the industry. Specifically, ways must be found to enable the utility to realize efficiencies and economies of scale, and to increase the numbers of customers over which the utility can spread the high fixed costs

needed to provide service.

Of the states that have faced these problems, a majority have decided to employ a uniform rate structure across individual systems owned and operated by the same utility as a means with which to accomplish these objectives and mitigate the utilities' economic hurdles.

SSU, its customers, and the Commission face such economic challenges in this case. SSU owns over 120 separate systems. Depending on the decision the Commission makes in this case, that fact will either exacerbate or ameliorate the economic and ratemaking conundrum presented in this case. If the Commission orders stand-alone rates, then SSU must administer over 120 different sets of rates; file over 120 annual reports, and prosecute as many rate cases; convince lenders to provide capital based on the risk associated with recovery of capital from an individual, small system -- and do it numerous times; and somehow manage what is sure to be, in many instances, intolerable rate shock.

On the other hand, a rate structure that applies uniformly throughout all of SSU's service area will enable the utility to reduce the costs of administration; reduce rate case expense; mitigate rate shock by spreading the cost of providing service (including high capital costs) over more customers; better enable the utility to raise needed capital; and encourage the type of consolidation and growth that is needed to bring the advantages of size and sophistication to bear on the special needs and

circumstances of the water utility industry.

The Commission has recognized the desirability of a uniform rate structure for SSU before, and the record of this case proves the point again. The avenue of a uniform rate structure is available to the Commission under governing statutes, if the record of evidence establishes that the various systems owned and operated by SSU are "functionally related." It does.

Opponents of a uniform rate structure in this case contend that, in order to satisfy the meaning of "functionally related," SSU must demonstrate that its systems are geographically and physically interconnected. However, a prior decision by the Commission, affirmed by the reviewing court, established that is not the standard. Citrus County v. Southern States Utilities, Inc., 656 So.2d 1307 (Fla. 1st DCA 1995). The requirement is that the systems be operationally related. SSU has demonstrated that -- from the standpoint of sharing the same operations personnel, sharing equipment, and complying with agency regulations -- the various systems are functionally administered under a common management scheme. Accordingly, in the case of SSU, a uniform rate structure will be both beneficial and lawful.

There is no avoiding the fact that this case presents the Commission with hard choices and competing equities. Regardless of the decision the Commission makes, there will be "winners" and "losers" among affected customers. In view of the special circumstances faced by this industry, which are magnified in the example of SSU, Marion Oaks and the City of Keystone Heights submit

that a rate structure that applies uniformly throughout all of SSU's service area will better serve the public interest in this case.

Argument

It is Keystone/Marion's position that the question of the appropriate rate structure is the key issue from which all other rate design and service availability issues derive. Therefore, Keystone/Marion will address that issue first. The subsidiary issues will be discussed at the conclusion of Issue 125.

Issue 125

What is the appropriate rate structure for SSU in this docket?

Keystone/Marion's position: *In view of the pressing need for measures to achieve effective, economies of scale, so as to mitigate the problems of rate shock and the impact on access to capital, the appropriate rate structure for SSU is a uniform rate structure.*

I. Past Decisions Regarding Uniform Rates.

The current SSU rate case is not the first time that the Commission has decided the issue of the appropriate rate structure for SSU. The Commission has considered the question of the appropriateness of uniform rates for SSU on at least three occasions. It has also considered the associated question of whether SSU's service areas are functionally related.⁵

On each of these occasions, after a thorough analysis of the

⁵ In this case, Intervenor's opposed to uniform rates have essentially renewed the same arguments that the Commission has rejected in the past. (Tr. 5210).

evidence presented, the Commission found a uniform rate structure preferable to a stand-alone rate structure for SSU for a variety of reasons. The findings of the Commission in these prior cases are pertinent to its deliberations in this docket. Therefore, each prior order is discussed below.

A. 1992 Rate Case, Docket No. 920199-WS.

In May 1992, SSU filed an application for a rate increase. SSU sought a "modified stand-alone" rate structure as a step toward a uniform rate structure for its entire system.

In its order, the Commission concluded it should prescribe a uniform structure in that case. The Commission quoted with approval SSU witness Cresse, who said that uniform rates would provide "longer rate stability and less erratic rate changes" and would result in "less accounting expense and rate case expense in the long run." Order No. PSC-93-0423-FOF-WS (1992 Rate Order) at 94. The Commission also noted that the it had established uniform rates in other utility industries.

The Commission's findings in the 1992 Rate Order were based in part on the testimony of Staff witness Williams. The Commission stated:

. . . [S]tatewide rates would put SSU on par with telephone and electric utilities, would provide SSU with incentives to continue acquiring small systems, would provide economies of scale, would provide better access to capital, and would provide a larger customer base within which to spread costs. Witness Williams further testified that uniform rates are simply derived, easily understood and economically implemented. He also testified that statewide rates would mitigate rate shock related to high plant cost

or operating expenses incurred as a result of plant upgrades, expansion, or regulatory requirements. In addition, Mr. Williams testified that this Commission has previously grouped water and wastewater systems by geographical area, such as county, and by company. For example, Marion Utilities, Sunshine Utilities, and Utilities, Inc. are utilities with some type of uniform rates.

Id.

Uniform rates were vigorously opposed in the 1992 SSU rate case by Cypress and Oak Villages of Homasassa (COVA) and Citrus County, who urged the Commission to adopt a stand-alone rate structure. After due consideration of all the evidence, the Commission found that the uniform rate structure was appropriate for SSU.

The Commission held:

We find that uniform, statewide rates provide the following advantages: 1) administrative efficiencies in accounting, operations and maintenance; 2) rate stability; 3) insulation of customers from rate shock from major capital improvements or increased operating costs; 4) recognition of economies of scale; 5) ease of implementation; and 6) lower rate case expense in the long run.

Id. at 95. Additionally, the Commission compared the rates under the various rate structures. The Commission held that the desirability of avoiding the wide disparity that would be associated with stand-alone rates and the numerous benefits of uniform rates clearly favored the uniform structure over a stand-alone approach for SSU. Id. at 95-96.

COVA and Citrus County appealed the Commission's 1992 Rate Order. The portion of the Commission's 1992 Rate Order setting

uniform statewide rates was reversed. Citrus County v. Southern States Utilities, Inc., 656 So.2d 1307 (Fla. 1st DCA 1995).⁶ Importantly, however, the court explicitly held that Florida law permits uniform rates for a utility "that is composed of facilities and land functionally related in the providing of water and wastewater utility service to the public." Id. at 1309. In fact, the court noted that it had affirmed the single system finding made by the Commission in Board of County Commissioners v. Beard, 601 So.2d 590 (Fla. 1st DCA 1992). The court noted that the statutory definition of "system" includes a combination of functionally related facilities and land.

The court's reversal of the decision to implement a uniform rate structure turned upon the fact that the Commission had not made an explicit finding that SSU's service areas are functionally related. The court found there was insufficient evidence in the record of the functional relatedness of SSU's system. The court said:

Until the Commission finds that the facilities and land owned by SSU and used to provide its customers with water and wastewater services are functionally related as required by the statute, uniform rates may not lawfully be approved.

Id. at 1311, emphasis supplied. Thus, the court's reversal of the Commission's decision on uniform rates was based, not on a lack of authority, but on evidentiary shortcomings. The court did not disagree that the evidence supported the benefits of uniform rates

⁶ The case was remanded to the Commission, where a decision on various related issues remains pending.

enumerated above; rather the court found such findings insufficient, *by themselves*, to set uniform rates.⁷

In the current case, as discussed below, ample evidence has been presented which supports a uniform rate structure, both as to the issue of the functional relatedness of SSU's service areas and the customer benefits to be derived from a uniform rate structure.

B. Investigation Case, Docket No. 930880-WS.

In September 1993, the Commission, on its own motion, opened a docket to investigate the question of the most appropriate rate structure for SSU on a prospective basis. Eleven customer hearings were held prior to the technical hearing in Tallahassee. Many customers spoke in favor of uniform rates. Order No. PSC-94-1123-FOF-WS (Investigation Order⁸) at 3-8. Additionally, written comments were received from customers. Of those letters expressing an opinion on the rate structure question, 447 were in favor of uniform rates; 163 were in favor of stand-alone rates.

A two-day hearing was held before the Commission in Tallahassee in April 1994. Again, the Commission found the uniform rate structure to be the most appropriate rate structure for SSU.

The Commission began its deliberations in Docket No. 930880-WS by referring to section 367.081(2)(a), Florida Statutes, which requires the Commission to fix rates which are "just, reasonable, compensatory, and not unfairly discriminatory" and to consider "the

⁷ As discussed below, the Commission has made the very finding required by the court in Order No. PSC-95-0894-FOF-WS, issued in Docket No. 930945-WS.

⁸ The Investigation Order is on appeal.

value and quality of service and the cost of providing the service.
. . . ." The Commission then evaluated potential rate structures
against this statutory standard, recognizing that no one rate
structure would be the best as to all categories.

In its analysis, the Commission considered numerous factors.
Each is discussed below.

1. Cost of Service/CIAC.

The Commission considered cost of service principles as well
as the level of CIAC paid by each of SSU's service areas. As to
cost of service considerations, the Commission found that because
it was dealing with multiple systems, "issues regarding common cost
allocations and subsidization make the traditional cost of service
standard difficult to apply." Investigation Order at 14. The
Commission noted that because of other factors, the highest cost
facilities do not necessarily have the highest cost to serve. Id.
at 15.

As to CIAC, the Commission found that "the level of CIAC is
not significant to the point that rate structure should be adjusted
to recognize this factor." Id. at 16. Additionally, the
Commission found that CIAC rates are constantly changing and that
uniform rates would actually mitigate rate shock due to changes in
CIAC levels. Id.

2. Conservation Rates.

The Commission considered whether a uniform rate would be a
disincentive for conservation and whether it had the flexibility to
be modified into a more aggressive conservation rate. On this

point, the Commission found that uniform rates would not hamper conservation:

. . . [T]he import of conservation to rate structure in this docket is that uniform rates would not preclude the implementation of conservation rates, either statewide or system-specific, in subsequent cases.

Id. at 18.

3. Geography.

In considering issues of geography, the Commission found that grouping SSU's systems by county was inappropriate because such a grouping did not result in similar costs for each group. The same held true for grouping by districts. Id. at 20.

4. Long Term Benefits of a Uniform Rate Structure.

The Commission found many benefits accruing from a uniform rate structure. These include:

- * Rates which are more affordable over time; the absorption of new plant investment by all SSU customers;⁹

- * Rate stability and the minimization of rate shock as well as the affordability of uniform rates for all, even those below the poverty level;

- * Greater revenue stability due to lower financing costs;

- * Netting of rate bases in future rate cases resulting in the lowering of overall rate base for all customers;

- * Potential cost savings from more favorable financing terms;

⁹ The Commission recognized that water and wastewater utilities are capital intensive and will continue to be so in the future due to increasingly stringent environmental regulation.

* Incentive to acquire additional systems which can result in having additional customers over which to spread costs.

Id. at 14-24.

5. Effect on Customers.

In discussing the effect of a uniform rate structure on customers, the Commission recognized that negative and positive impacts of a uniform rate structure will change and shift over time. Id. at 24. The Commission also recognized that customers have long accepted the principle of uniform rates. Id. at 27. Further, the Commission cited statistical analyses which indicated no significant differences among the various systems in a uniform rate structure. Id. at 28.¹⁰

After considering and discussing at length all the factors mentioned above, the Commission concluded:

We believe that uniform statewide rates should be our goal for this utility. We also believe that the benefits of uniform rates outweigh any of the perceived disadvantages. Accordingly, based upon the evidence of record and our discussion above, we find that the appropriate rate structure for SSU, on a prospective basis, is the statewide uniform rate structure.

Id. at 29. Again, uniform rates were found to be appropriate.

C. Jurisdictional Case, Docket No. 930945-WS.

This docket began with a petition for declaratory statement filed by SSU in September 1993 regarding the Commission's jurisdiction over SSU facilities in Polk and Hernando counties.

¹⁰ The sole exceptions were Deltona and Spring Hill, which were outliers.

SSU's petition for declaratory statement was denied by the Commission in Order No. PSC-94-0686-DS-WS. However, the Commission began its own investigation on this topic. The Commission held a hearing in this case on January 23-26, 1995.

The central issue in this docket was whether the SSU service areas constitute one functionally related system so as to give the Commission jurisdiction over all SSU facilities. See, section 367.021(11), Florida Statutes. The Commission held:

Upon consideration of the evidence and the arguments advanced by the parties, we find that SSU's facilities and land are administratively and operationally interrelated. We also find that SSU's present facilities and land are functionally related and, as such constitute a single system pursuant to Section 367.021(11), Florida Statutes.

Order No. PSC-95-0894-FOF-WS (Jurisdictional Order¹¹) at 10. In reaching this conclusion, the Commission analyzed the administrative and operational interrelationship of SSU's facilities.

1. Administrative Interrelationship.

Citing evidence that SSU finances its operations on a company-wide basis, purchases on a company-wide basis, maintains a central computer and central transportation services, the Commission found that "SSU's existing facilities and land are administratively interrelated." Id. at 5.

2. Operational Interrelationship.

The Commission found that SSU field activities cross county

¹¹ The Jurisdictional Order is on appeal.

boundaries, that in emergency situations support is provided from other plants, that employees and equipment are shared, materials and supplies are centralized, that central office personnel provide training to field employees and that meter reading and billing functions are centralized. Id. at 6-7. The Commission concluded: "Based upon the evidence discussed above, we find that SSU's existing facilities and land are operationally interrelated." Id. at 8.

II. The Evidence in this Proceeding Demonstrates the Need for Uniform Rates.

The rate structure issues in this case are virtually identical to those raised in the previous SSU dockets discussed above. As in those dockets, this docket is replete with evidence supporting a uniform rate structure for SSU.

A. Like the Entire Water/Wastewater Industry, SSU Faces Special Challenges.

The water and wastewater industry is very capital intensive. In addition, the evidence in this case points up the impact of environmental standards on the utility. SSU's situation is symptomatic of the special challenges the water/wastewater industry faces in building and operating a substantial plant that serves a relatively small number of customers. In SSU's case, the problems are magnified by the necessity of having to administer over 600 different rate schedules (including the complications of billing and accounting), file over 100 different annual reports and process a multitude of rate filings. In this case, numerous examples were given of outlandish increases that would be associated with a

stand-alone structure. Some customers even threatened to abandon service from SSU's central water system in favor of private wells - - the ultimate "stand-alone" system -- and the one which the entire concept of the central utility function was designed to supplant in the first place.

The situation requires strong measures -- measures that will enable the utility to realize efficiencies and economies of scale, and to spread the costs of required capital investments over a larger number of customers.

B. The Uniform Rate Structure is Needed to Ameliorate The Economic Difficulties Faced by SSU.

To help overcome similar difficulties faced by water utilities elsewhere, at least 20 states have approved single-tariff pricing for water utilities. Moreover, at least 19 counties in Florida charge uniform rates to their water and wastewater customers. (Tr. 1405).

Uniform rates will have the following beneficial impacts on the situation described above:

Short Term

1. Lower rates for SSU's customers: Uniform rates will allow SSU to spread the cost of operations and major capital expenditures over its entire body of ratepayers, resulting in lower rates. (Tr. 1401). If the utility can avoid the need to allocate large costs to a small group of customers, rates will be more reasonable for the body of customers. (Tr. 1473).

Additionally, reasonable rates encourage growth of the system and thus make it possible for fixed costs to be spread to new

customers. (Tr. 1475-1477). Further, under stand-alone rates, capital projects may have to be delayed or SSU may have to negotiate with regulatory agencies. This possibility is far less likely with uniform rates. (Tr. 549). Staff witness Shafer testified that:

What may be an immaterial investment when spread over all customers of Southern States may have significant impact if costs can only be spread and recovered over a particular service area. The utility's decision to invest may be more carefully considered in the latter case. Consequently, the ability to spread costs more widely may lead to more investment than would otherwise occur.

(Tr. 3314).

2. Mitigation of rate shock: A water and wastewater utility often has to make large capital investments in a particular facility. In contrast to singling out one group of customers for a large increase, uniform rates provide a smaller increase on a per customer basis. Over time, all customers will ultimately benefit from this approach. (Tr. 1402).¹²

3. Lower rate case expense: When all of SSU's facilities are combined for rate case purposes, rate case expense will be lower. (Tr. 1402).

4. Easily understood: Under a stand-alone rate structure, customers taking service from the same utility pay different rates. This leads to customer confusion. However,

¹² As Staff Witness Shafer pointed out: "A rate increase that is three times its previous level may be considered excessive by the customer even though the final rate level may not be that great relative to other utilities or service areas." (Tr. 3314).

uniform rates are easy to understand. (Tr. 1402). All customers pay the same amount for the same service.

Long Term

1. Administrative efficiencies and economies of scale in accounting and operations and maintenance: When administrative functions are combined, cost savings result for customers. (Tr. 1403).¹³ As witness Ludsen testified, efficiencies are created when the matrix of rates is decreased. (Tr. 5331).

Further, uniform rates create economies of scale. (Tr. 5331). Staff witness Shafer testified that though efficiencies may not be easily calculable, "common sense tells you that matters such as billing inquiries and disputes would be less numerous if rate structure is more easily understood." (Tr. 3314). Additionally, Dr. Beecher, an expert in the structure and regulation of the water utility industry, testified that modern public policy supports consolidation of the water-supply industry to achieve economies of scale. (Tr. 1539).

2. Frequency and cost of rate filings is reduced: When rates are averaged, the utility can offset revenue deficiencies in one service area against another. This eliminates the need for frequent rate cases. (Tr. 1403).

3. Access to capital: SSU witness Denny explained that it is much more difficult to construct capital projects for small

¹³ Mr. Ludsen gave an example of the expense of an annual report. On a stand-alone basis, SSU would have to prepare over 100 annual reports. On a uniform basis, SSU would have to prepare only one annual report. (Tr. 1482).

systems when a small customer base must pay for a large capital improvement than when the costs are spread to all customers. (Tr. 437). Similarly, Staff witness Shafer testified that a financially healthy utility is necessary to ensure safe, efficient and reliable service. Financial health also relates directly to whether a utility can obtain the resources needed for expansion, replacement or upgrading of plant and infrastructure. (Tr. 3307).¹⁴ Uniform rates minimize operating risk. This leads to better access to capital markets. (Tr. 1403).

C. Customers' Views on the Appropriate Rate Structure.

In any deliberation on the appropriate rate structure, it is important for the Commission to consider the opinions of the customers served by SSU and the impact that its rate structure decision will have on them. Both the service hearings and the hearing before the Commission in Tallahassee were replete with evidence on this topic.

The Commission conducted numerous service hearings in SSU's territories. Opinions on both sides of the uniform rate issue were heard. Many customers spoke in favor of uniform rates for SSU. The following are some illustrative customer comments on the uniform rate issue:

* [W]hen we look at all utilities we basically use the uniform rates to get the prices down. . . . I strongly believe in uniform rates. It's something we use in telecommunications, electric, and its something we should use in water and wastewater. (Representative Marvin

¹⁴ Additionally, the financial problems, which often lead to abandonment of small systems, are not associated with large systems. (Tr. 3308).

Couch, District 33, Sanford Service Hearing, Tr. 75.)

* [W]e need uniform rates. You know, you cannot charge somebody as much as a mortgage for water and sewage. They cannot afford it. (Senator John Ostaikiewicz, Sanford Service Hearing, Tr. 77, 78.)

* The modified stand-alone rates that you have been approved for are a two-and-a-half times increase in gallons per usage charge. It seems a little bit high to me and everyone else I've talked to. . . . Everyone seems to be consistent in that they prefer the uniform rate, that rate would give us the fairest rate of all. (Dave Poirier, Kissimmee Service Hearing, Tr. 24.)

* I'm a fan of the uniform rate structure because it's a whole lot less than the [amount] that I would be paying. (Ronnie Maylin, Service Hearings, Tr. 56.)

* [W]e did support the uniform rate structure the PSC implemented in 1992. We believe that any of the other approaches listed on your interim and final rate chart, we recently received, will be as unworkable as the specific and stand-alone rate structure you threw out in 1992 and again rejected in 1993. (Ray Shackelford, Inverness Service Hearing, T. 34, 35.)

* I am in favor of the uniform rates. I believe the Public Service Commission were the ones who set it up, uniform rates, in the first place, and they stated that . . . it would be more equitable to all concerned. (Carlette Max, Inverness Service Hearing, Tr. 103.)

* [U]niform rates, I think, is what has to prevail . . . but make it uniform for everybody within the system. (Henry R. Charland, Inverness Service Hearing, Tr. 137.)

* The directors of the [Deep Creek] association represent 3,343 property owners, and I'm here today in their behalf. . . . And we unanimously came to an agreement that the best and fairest system would be the uniform rate structure. (Ken Barnes, Fort Myers Service Hearing, Tr. 23, 24.)

* We [the Deep Creek Civic Association] are primarily here to support the uniform rates as requested by SSU. (Audry Seay, Fort Myers Service Hearing, Tr. 45.)

* Without being experts, without knowing what really should be done, all we can say is based on what we know as residents of Deep Creek, we certainly support uniform rates. (Joseph Hofrichter, Fort Myers Service Hearing,

Tr. 114.)

* [W]e [Sugarmill] respectfully request that the Public Service Commission grant any rate increase on a uniform basis rather than a stand-alone. (George W. Wells, Sanford Service Hearing, Tr. 24.)

* [A] reasonable increase should be looked into and that reasonable increase should be distributed on a uniform basis. (Mildred Musho, Ocala Service Hearing, Tr. 52.)

These illustrative comments indicate that many customers favor the uniform rate structure.

The Commission also heard customer testimony at the hearing in Tallahassee. For example, Mr. Bill Austin, board member and past president of the River Bend Condominium Association, Inc., urged the Commission to return to the uniform rate structure. (Tr. 49). He testified that his water rates have gone up 200% on a stand-alone basis. (Tr. 54). Mr. Vic Beleckas, of Sunny Hills, asked the Commission to keep utility rates statewide. (Tr. 92). Mr. Leigh McEachern eloquently presented the Commission with three real life examples of customers whose lives have been greatly affected by the interim stand-alone rates. These customers' bills have substantially increased under the stand-alone rate structure. He asked that those customers' views be considered by the Commission. (Tr. 4859-4862).

In addition, Karla Olson Teasley, Vice President for Customer Service for SSU, presented testimony on customer reaction to the stand-alone rates. Ms. Teasley testified that since implementation of modified stand-alone interim rates in this case in January 1996, SSU has been besieged with complaints about the stand-alone rate

structure. (Tr. 4989). Many customers have received huge increases under the modified stand-alone rate structure. (Tr. 4990). For example, in Marion Oaks, the average monthly bill has almost *doubled*--increasing from \$43.49 (under uniform rates) to \$84.59 (under modified stand-alone rates).

Due to the large increases from the interim stand-alone rates, many customers have asked to discontinue central water service from SSU and to use private wells. This has been especially true in the Marion Oaks area. (Tr. 4992). The Commission should consider the effect stand-alone rates will have on many SSU customers in making its rate design decision.

In short, the needs and challenges associated with recovering the cost of large capital expenditures from a small customer base, with which agencies are grappling in many states, are present in full force in the case of SSU. A uniform rate structure will ameliorate the situation by allowing SSU to realize economies and more readily obtain needed capital on reasonable terms. And, as developed below, because SSU's system is functionally related, the avenue of a uniform rate structure is available to the utility and the Commission under governing statutes.

Issue 117

Are SSU's facilities and land functionally related, and if so, does the combination of functionally related facilities and land, where located, constitute a single system as defined under Section 367.021(11), Florida Statutes?

Keystone/Marion's position: *Yes. SSU's facilities and land are functionally related so as to constitute a single system under the

statutory standard.*

As discussed above, in Citrus County v. Southern States Utilities, Inc., 656 So.2d 1307 (Fla. 1st DCA 1995), the court held that Chapter 367 requires a finding that SSU's service areas are functionally related as a prerequisite to the setting of statewide uniform rates. The Commission has already made such a finding in Order No. PSC-95-0894-FOF-WS. The evidence in this case warrants a similar conclusion.

SSU witness Ludsen provided Exhibit No. 127 which demonstrates, via a pictorial analogy of a wagon wheel, the way in which the SSU service areas are related. As Mr. Ludsen testified, the exhibit shows "the interrelationship between Southern States' land and facilities are managerial, operational and administrative." (Tr. 1405).

Mr. Denny, SSU General Manager for Operations, provided extensive evidence of the functional interrelatedness of SSU's system. Mr. Denny identified the following facts which demonstrate functional relatedness of SSU's service areas:

* At least one of every 8 hours worked by SSU field personnel is attributable to work across county boundaries. This work includes regular operations, duties, maintenance and testing, and responses to emergencies. (Tr. 377; Exh. 73).¹⁵

* Operations personnel provide services and share equipment between regions. (Tr. 381,

¹⁵ When SSU acquired the Lakeside, Valencia Terrace and Spring Gardens systems, it hired no additional personnel to operate these plants because of its integrated structure. In emergencies, personnel from all service areas are dispatched to the site of the emergency. (Tr. 377-378).

387).¹⁶

* The Central Operations Department coordinates activities for all SSU regions. (Tr. 382). This Department includes Regional Managers who provide administrative and operational support services for all facilities. (Tr. 383).

As Mr. Denny pointed out, the fact that the physical plant of SSU may not cross certain county boundaries is not dispositive of the issue. Many services in addition to physical plant are needed to provide service to customers:

These services include the actual operation and maintenance of facilities in multiple counties by the same field personnel, the use of chemicals at various facilities which are bought in bulk through Apopka and may be stored at designated sites for distribution to multiple facilities, the installation of meters and lines by personnel who perform this function in multiple counties, etc. These activities are in addition to the managerial, administrative and training services provided by each of the operations team members . . . which in every instance are provided to land and facilities in more than one county.

(Tr. 386).

Mr. Terrero, SSU Manager of Environmental Services, described the capital budget evaluation team (BE Team). This team provides further evidence of the functional interrelatedness between SSU's land and facilities. The BE Team is responsible for formulating SSU's annual and five-year capital budgets and presenting these budgets to management. The BE Team identifies the capital needs of

¹⁶ SSU has received permission from the Department of Environmental Protection to satisfy certain safety and equipment requirements by maintaining equipment in SSU trucks, which serve numerous areas, rather than being required to keep equipment at each individual facility. (Tr. 381-382).

every SSU water and wastewater facility, wherever such facility is located. The BE Team assesses capital needs statewide, regardless of county boundaries or specific system history. (Tr. 451).

Mr. Terrero also discussed other services provided by employees at SSU headquarters to all SSU plants. These include services provided by the environmental and permitting departments, the legal department, the engineering department and the construction management area. These departments provide services to all SSU facilities regardless of their location. (Tr. 452).¹⁷

Similarly, technical training is provided by the personnel in the Operations Services departments on water and wastewater topics and maintenance related topics. (Tr. 445).¹⁸ In summary:

. . . SSU's operations are so integrated that any given SSU plant could not provide safe, adequate, reliable service without support from the personnel, equipment, and supplies based in other SSU service areas and the Apopka central office.

(Tr. 4926).

The "test" enunciated by witness Hansen for functional relatedness ("Does any change in the operation of SSU/SMW's facilities have an affect [sic] on the facilities of any other SSU system?" (Tr. 3117)) has no legal basis. Mr. Hansen's "test"

¹⁷ All these services will be provided to the newly acquired systems in Buena Ventura Lakes, Lakeside, Spring Gardens and Valencia Terrace. (Tr. 453).

¹⁸ This includes workshops on new environmental laws or rules, training on permit issues, certification preparation courses, refresher courses, statewide training (sometimes with outside vendors) and management and supervisory training. (Tr. 445-448). See Exhibit No. 80 for a list of safety training classes.

implies that facilities must be physically interconnected in order to be functionally related. (Tr. 4925). This "test" has been rejected by the Commission and by the First District Court of Appeal and must be rejected again in this case. Based upon the evidence of record, the Commission should find -- again -- that SSU's facilities are functionally related within the meaning of the statute.

Issue 124

For SSU, what goals and objectives (i.e. safe and efficient service at an affordable price, resource protection, financial viability, regulatory efficiency) should the Commission consider in determining the appropriate rate structure and service availability charges?

Keystone/Marion's position: *The goals and objectives should be safe, efficient service at an affordable price, resource protection, a financially healthy utility and regulatory efficiency.*

Staff witness Shafer provided the Commission with a succinct summary of the broad goals applicable to ratemaking in this case. These are: safe efficient service at an affordable price, resource protection, a financially healthy and independent utility, and regulatory efficiency." (Tr. 3304). Keystone/Marion agrees with these goals and submits that the evidence in this proceeding establishes that uniform rates for SSU not only meet but further these regulatory goals.

Uniform rates will enable all SSU customers to afford service, will promote regulatory efficiency and will enable SSU to attract capital from the market thus ensuring its financial health and stability. Additionally, uniform rates will enable SSU to pursue

a water conservation strategy. (Tr. 1727).

The goals suggested by SSU witness Bencini are very similar to the goals Staff has proposed:

- * Provide a reasonable opportunity for the utility to attract capital and maintain sound corporate credit;

- * Set rates as close as possible to reflect the allocated unit costs of the customer (base facility) and commodity (gallonage) components;

- * Provide reasonable continuity with past and future rates;

- * Avoid unnecessary complexity, be simple to understand and easy to administer.

(Tr. 1313-1314).

In addition to considering the broad rate structure goals outlined above, the Commission should note that SSU has several characteristics that distinguish it from other water and wastewater utilities. These factors were pointed out by Staff witness Shafer. They include the fact that SSU has more customers than any other water and wastewater utility under the Commission's jurisdiction, that SSU is geographically dispersed, and that SSU has over 150 separate water and wastewater service areas. (Tr. 3305). These important distinctions give the Commission great discretion in determining the most appropriate rate structure for SSU. As Mr. Shafer said:

Since all the customers of Southern States are under the same operational oversight the Commission may implement certain ratemaking philosophies that are not available to a stand alone utility.

(Tr. 3306). Uniform rates for SSU will achieve the Commission's

regulatory goals and will appropriately take into account the unique characteristics of SSU's operations.

Issue 129

What are the appropriate rates for SSU?

Keystone/Marion's position: *The appropriate rate structure for SSU is a uniform rate structure.*

The appropriate rate structure for SSU is a structure based on uniform rates. However, that does not mean that there must be a single rate. Rather, it means that the Commission must fashion appropriate rate classes. Thus, in SSU's case, it is appropriate to have a separate rate class to recognize the special, and higher, cost to provide service to those customers with brackish water who must be served by a reverse osmosis plant. A separate rate class for reverse osmosis is not inconsistent with a uniform rate concept as it simply recognizes the higher cost of reverse osmosis. A separate reverse osmosis class is analogous to different rates for customers with different pipe sizes.

Keystone/Marion's detailed arguments in support of a uniform rate structure are discussed under Issue 125, supra.

Issue 136

Should the utility's plant capacity charges be differentiated by the level of CIAC of the service area?

Keystone/Marion's position: *No. In keeping with a uniform rate structure, plant capacity charges should not be differentiated by CIAC level.*

No. SSU's plant capacity charges should not be differentiated by the level of CIAC of any certain service area. As discussed in

detail above, SSU is one system. Therefore, every contribution received from a customer is a contribution to that single system. Treating facilities separately is inconsistent with a uniform rate structure. (Tr. 1407). In keeping with a uniform rate structure, plant capacity charges should not be differentiated by the level of CIAC of any particular service area.

Due to events in the past, different contributions may have been made by different customers. This cannot be remedied now. (Tr. 1407). Further, there may be good reasons that some customers have made small contributions in the past. This may have resulted because high levels of CIAC decrease investment in the facilities, diminish available rate base upon which a return may be earned, and increase operating expenses, resulting in losses. These factors all discourage proper operation of the facilities. (Tr. 1407). In addition, it is not uncommon for customers served by facilities that are not physically interconnected to be charged a uniform rate, despite the fact that customers paid differing contribution amounts. (Tr. 1407).¹⁹

Issue 138

What are the appropriate service availability charges for each plant?

Keystone/Marion's position: *The appropriate service charges should be based on a uniform rate structure.*

¹⁹ For example, Hernando County, which charges uniform water and wastewater rates to customers served by non-interconnected facilities, has collected contributions ranging from \$0 to \$2,000. (Tr. 1407).

Uniform service availability charges are consistent with the establishment of uniform rates and the recognition that SSU is one facility. (Tr. 1406, 1407). Thus, all customers in a particular service classification who connect to SSU's facilities anywhere in Florida will pay the same charge. (Tr. 1406).

Even after new service availability charges are authorized by the Commission, it takes years for the new charges to have any impact on customers, particularly when the utility is required to make significant capital investments due to environmental mandates. (Tr. 1406). Also, whether or not the charges have any recognizable impact at all will depend upon a variety of factors, such as customer growth experience, additional investments in utility facilities, future changes in laws, rules or standards which might impact capital needs, economic conditions, and other possible factors. (Tr. 1406, 1407).

Issue 146

Are uniform rates as proposed by SSU in the instant case both in accord with statutes and constitutional?


Keystone/Marion's position: *Yes. The uniform rates proposed by SSU are legal under both the statute and the First District Court of Appeal's recent decision on uniform rates.*

Yes. The uniform rates proposed by SSU in this case comply with the appropriate statutory standard found in section 367.081(2)(a), Florida Statutes. This subsection requires the Commission to set rates which are "just, reasonable, compensatory, and not unfairly discriminatory." Uniform rates clearly meet this statutory standard.

The First District Court of Appeal found in Citrus County v. Southern States Utilities, Inc., 656 So.2d 1307 (Fla. 1st DCA 1995), that a uniform rate structure is lawful so long as the Commission makes the requisite findings on functional relatedness. In Order No. PSC-95-0894-FOF-WS, the Commission found that the SSU system meets this legal criterion. Additionally, that finding is amply supported in this docket. See Issue 125, supra. Therefore, uniform rates are legal and appropriate for SSU.²⁰

Conclusion

The Commission should approve a statewide uniform rate structure for SSU. Such a structure meets the appropriate statutory standards and provides numerous customer benefits.


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²⁰ It is beyond this Commission's authority to determine constitutional questions. However, since the First District Court of Appeal has found uniform rates appropriate (see, i.e., Board of County Commissioners v. Beard, 601 So.2d 590 (Fla. 1st DCA 1992)) and has also found that uniform rates would be legal for SSU upon an appropriate evidentiary finding (see, Citrus County v. Southern States Utilities, Inc., 656 So.2d 1307 (Fla. 1st DCA 1995)), a constitutional infirmity based on a uniform rate structure argument is highly unlikely.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Post-Hearing Statement and Post-Hearing Brief of the City of Keystone Heights and the Marion Oaks Homeowners Association, has been furnished by U.S. Mail to the following parties of record, this 10th day of June, 1996:

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