

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Response to Commission  
order to show cause by Florida  
Water Services Corporation in  
Pasco County.

DOCKET NO. 961416-WS  
ORDER NO. PSC-97-0680-FOF-WS  
ISSUED: June 11, 1997

The following Commissioners participated in the disposition of  
this matter:

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

NOTICE OF PROPOSED AGENCY ACTION  
ORDER FINDING THAT FLORIDA WATER SERVICES CORPORATION IS NOT  
REQUIRED TO REDUCE ITS RATES OR REFUND REVENUES COLLECTED  
AS A RESULT OF A DECREASE IN PURCHASED BULK WATER AND  
WASTEWATER COSTS IN PASCO COUNTY

AND

ORDER RESOLVING SHOW CAUSE PROCEEDING

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service  
Commission that the action discussed herein, except the resolution  
of the show cause proceeding, is preliminary in nature and will  
become final unless a person whose interests are substantially  
affected files a petition for a formal proceeding, pursuant to Rule  
25-22.029, Florida Administrative Code.

BACKGROUND

Section 367.081(4)(b), Florida Statutes, provides that the  
approved rates of any utility which receives all or any portion of  
its utility service from a governmental authority or from a water  
or wastewater utility regulated by the Commission and which  
redistributes that service to its utility customers shall be  
automatically increased or decreased without hearing, upon verified

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FPC-REGIONS REPORTING

notice to the Commission 45 days prior to its implementation of the increase or decrease that the rates charged by the governmental authority or other utility have changed.

On December 12, 1995, after a public hearing, the Pasco County Board of County Commissioners approved a rate change for all customers encompassing the period of January 1, 1996 through September 30, 1999. As a result of this rate change, the rates for all bulk water and/or wastewater customers were decreased effective January 1, 1996. On December 20, 1995, the Commission staff received from Pasco County copies of the notices it sent to utilities regulated by the Florida Public Service Commission (PSC), advising the utilities of the bulk water and/or wastewater rate change. There are nine PSC regulated utilities which purchase water and/or wastewater from Pasco County. According to the notice, Pasco County extended the January 1, 1996 effective date until April 1, 1996 in order to allow the utilities sufficient time to contact the Commission and/or incorporate the new charges into its rate structure.

The bulk water and/or wastewater rate change approved by Pasco County qualifies for a pass-through rate adjustment for PSC regulated utilities pursuant to Section 367.081(4)(b), Florida Statutes. Section 367.081(4)(e), Florida Statutes, provides that a utility may not adjust its rates under this subsection more than two times in any 12 month period. Therefore, on March 29, 1996, staff sent letters to the nine affected utilities regarding the Pasco County rate change advising them that because Pasco County approved two rate changes in 1996, the utilities had the option of using the pass-through statute to adjust their rates accordingly. Specifically, staff informed the utilities that one of the rate changes could be filed as a pass-through in conjunction with an index and the other pass-through adjustment could be filed separately to be effective for October 1, 1996.

To date, only three of the nine (Utilities Inc. of Florida, Betmar Utilities, Inc. and Jasmine Lakes Utilities Corporation) have filed for a pass-through rate reduction. Another utility, Virginia City Utilities, Inc. (Virginia City) had a staff assisted rate case in Docket No. 960625-WU, through which the county's decreased rates were incorporated. By Order No. PSC-97-0458-FOF-SU, issued April 22, 1997, in Docket No. 961417-SU, we ordered that a pass-through rate reduction was not necessary for Hudson Utilities, Inc., d/b/a Hudson Bay Company (Hudson). By Order No. PSC-97-0457-FOF-WU, issued April 22, 1997, in Docket No. 961428-WU,

we ordered that a pass-through rate reduction was not necessary for Forest Hills Utilities, Inc. (Forest Hills). The three utilities which have not filed a pass-through rate reduction are: Mad Hatter Utility, Inc. (Mad Hatter or MHU); Aloha Utilities, Inc. (Aloha); and Southern States Utilities, Inc. (SSU). By Order No. PSC-96-1226-FOF-WS, issued September 27, 1996, in Docket No. 960878-WS, each of these three utilities was ordered to show cause in writing why their rates should not be adjusted, effective April 1, 1996, to reflect the reduction in purchased water and/or wastewater costs to bulk water and/or wastewater customers in Pasco County. Order No. PSC-96-1226-FOF-WS also required the utilities to file the information required by Rule 25-30.425(1)(a) through (f), Florida Administrative Code, along with a calculation of the rate reduction. On October 17, 1996, SSU filed its response to the show cause order.

Southern States Utilities, Inc. is a Class A utility, providing water and wastewater service to 152 service areas in 25 counties. As of December 31, 1995, the utility had gross operating revenues of \$23,919,123 for water and \$18,104,984 for wastewater and reported operating income of \$1,927,299 for water and \$1,646,772 for wastewater.

#### APPLICATION OF PASS-THROUGH STATUTE TO SSU

On October 17, 1996, SSU filed its response to Order No. PSC-96-1226-FOF-WS. Order No. PSC-96-1226-FOF-WS required SSU to show cause in writing why its rates should not be adjusted to reflect the reduction in purchased water and/or wastewater costs to bulk water and/or wastewater customers in Pasco County. SSU, however, failed to file the information required by Rule 25-30.425(1)(a) through (f), Florida Administrative Code, pursuant to Order No. PSC-96-1226-FOF-WS. Instead, SSU provided in its response the same legal arguments it raised at the September 3, 1996 agenda conference, along with Exhibits B and C.

Exhibit B is a summary of the water and wastewater service purchased by SSU from Pasco County for its Palm Terrace and Zephyr Shores plants. Exhibit C is SSU's Affirmation Statement affirming that the forbearance of the pass-through decrease referenced in Order No. PSC-96-1226-FOF-WS, will not cause SSU to exceed the range of its last authorized rate of return on equity, which is 10.88% to 12.88%. In its response to the show cause order, SSU also asserted that this Commission has no authority to require a

utility to decrease its rates in response to a reduction in purchased bulk water and/or wastewater costs.

This matter was subsequently presented to us at the April 1, 1997, agenda conference. In its March 20, 1997 recommendation, our staff indicated that the utility's achieved rate of return on equity was 11.38% for the calendar year ended December 31, 1995. At the April 1, 1997 agenda conference, the utility indicated that the 11.38% rate was not correct. After much discussion, we deferred this item to allow our staff and the utility the opportunity to further discuss and resolve the differences brought forth during the agenda conference.

On April 3, 1997, staff met with the utility via teleconference call. During the conference call, the utility advised staff that the 11.38% rate contained in staff's recommendation of March 20, 1997 was based on the achieved rate of return on equity rate established in the utility's last rate case by Order No. PSC-96-1320-FOF-WS, issued October 30, 1996, in Docket No. 950495-WS. During the conference call, the utility reminded staff that the achieved rate of return on equity established in the utility's last rate case is based on a projected 1996 test year. In calculating the proposed rate reduction for purchased water and wastewater, the most recent 12-month period data available was the calendar year 1995. Because the proposed rate reduction was based on consumption during 1995, we agree that the utility's achieved rate of return on equity should be the rate determined in its 1995 annual report rather than the achieved rate of return on equity determined in its last rate case. According to SSU's 1995 annual report, its combined achieved rate of return on equity was (10.20%) for the calendar year ended December 31, 1995.

Further, we note that the utility's current rates became effective September 20, 1996. Because the rates have not been in effect for an entire year, a true picture of the effect on earnings of the new rates cannot be determined at this time. We will better understand what the true effect on earnings and rate of return these rates will have on this utility once the rates have been in effect for an entire year. We will monitor the utility's annual report for 1997, and if it is determined that the utility is overearning, an overearnings investigation will be conducted accordingly.

As previously stated, SSU filed Exhibit B, which shows a summary of the water and wastewater services purchased from Pasco County for its Zephyr Shores and Palm Terrace plants. In Exhibit B, a comparison of the purchased water and wastewater costs allowed in the utility's last rate case (Docket No. 950495-WS) for these plants with SSU's actual 1995 costs as adjusted for Pasco County's rate decrease shows that SSU should receive a rate increase of \$18,083 to fully recover its costs for purchasing Pasco County service at Pasco County's reduced rate. Based on the updated information provided during the April 3, 1997 conference call, we are now in agreement with the utility.

On April 1, 1996, Pasco County's bulk rates for water decreased from \$2.31 to \$2.18 and on October 1, 1996, Pasco County's bulk rates for water decreased from \$2.18 to \$2.15 per 1,000 gallons. The rate reduction on a prospective basis is the difference between \$2.31 and \$2.15 or \$.16. On April 1, 1996, Pasco County's bulk rates for wastewater decreased from \$3.11 to \$2.20, and on October 1, 1996, Pasco County's bulk rates for wastewater increased from \$2.20 to \$2.23 per 1,000 gallons. The rate reduction on a prospective basis is the difference between \$3.11 and \$2.23, or \$.88. Also, Pasco County charges a Capital Recovery Surcharge which is applicable to some existing bulk water and wastewater customers. The Capital Recovery Surcharge is \$.68/1,000 gallons for bulk water customers and \$1.00/1,000 gallons for bulk wastewater customers.

When we originally calculated the pass-through rate adjustment for Zephyr Shores, we compared the costs of water and wastewater purchased at the old rate for the most recent 12-month period with the costs of water and wastewater purchased at the new rate. The most recent 12-month period data available was the calendar year 1995, as contained in the information provided by the utility. Originally, we calculated an increase of \$722.07 for purchased water and a decrease of \$6,832.67 for purchased wastewater for Zephyr Shores. For Palm Terrace, we originally calculated a decrease of \$9,715.27 for purchased water. These amounts include the gross up for regulatory assessment fees.

However, during the conference call, the utility advised our staff that the cost approved in Docket No. 950495-WS for purchased water for Zephyr Shores and the cost embedded in the utility's rates is more than the cost it is paying to Pasco County. Further, the cost approved in Docket No. 950495-WS for purchased wastewater for Zephyr Shores and the cost embedded in the utility's rates is

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less than the cost it is paying to Pasco County. As for Palm Terrace, the utility indicated that the cost approved for purchased water and the cost embedded in its rates is less than the cost it is paying to Pasco County. Based on this updated information for Zephyr Shores, we have calculated a decrease of \$11,907 for purchased water and an increase of \$4,882 for purchased wastewater. For Palm Terrace, we have calculated an increase of \$24,371 for purchased water. These amounts have been grossed up for regulatory assessment fees.

We believe a utility's rates should be reduced to reflect a reduction in purchased water and/or wastewater costs only in the event that the utility meets or exceeds the minimum of its authorized range of return on equity. We further believe that this Commission is vested with the authority to order a reduction in rates when the utility fails to initiate a decrease pursuant to Section 367.081(4)(b), Florida Statutes. The utility is earning well below its minimum 12.14% authorized rate of return on equity. Therefore, we find that no reduction in rates is appropriate. This is consistent with our decisions in the cases of Hudson Utilities, Inc., Docket No. 961417-SU, Order No. PSC-97-0458-FOF-SU, and Forest Hills Utilities, Inc., Docket No. 961428-WU, Order No. PSC-97-0457-FOF-WU, both issued April 22, 1997.

#### REFUND

Because the utility's achieved rate of return on equity is well below the minimum of its authorized range of return and no reduction is necessary, we find that no refund is appropriate. This is consistent with our decisions in the cases of Hudson Utilities, Inc., Docket No. 961417-SU, Order No. PSC-97-0458-FOF-SU, and Forest Hills Utilities, Inc., Docket No. 961428-WU, Order No. PSC-97-0457-FOF-WU, both issued April 22, 1997.

#### CLOSING OF DOCKET

Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, this docket shall be closed.

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Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Water Services Corporation shall not be required to reduce its rates to reflect the reduction in purchased water and wastewater costs to bulk water and/or wastewater customers in Pasco County. It is further

ORDERED that Florida Water Services Corporation shall not be required to refund any revenues collected since the effective date of the decrease in purchased water and wastewater costs to bulk water and/or wastewater customers in Pasco County. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed.

By ORDER of the Florida Public Service Commission, this 11th day of June, 1997.

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

BLR

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

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

The action proposed herein, except the resolution of the show cause proceeding, is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on July 2, 1997.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party substantially affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 of the effective date of this order,



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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.