

STATE OF FLORIDA

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DIVISION OF WATER & WASTEWATER  
DANIEL M. HOPPE, DIRECTOR  
(850) 413-6900

# Public Service Commission

August 24, 1999

The Honorable Anna Cowin  
The Florida Senate, District II  
716 West Magnolia Street  
Leesburg, Florida 34748

Re: Docket No. 950495-WS, Application of Southern States Utilities, Inc., n/k/a  
Florida Water Services Corporation for a Rate Increase

Dear Senator Cowin:

Because the docket is still open on this case, the Chairman's office forwarded your letter of August 20, 1999, to me for response. In that letter, you request a written response to six questions and a transcript of the August 23, 1999 Special Agenda Conference for Docket No. 950495-WS. At this Special Agenda Conference, the Commission considered and voted on Florida Water Services Corporation's (Florida Water's) offer of settlement filed with this Commission on June 14, 1999.

In its recommendation to the Commission, the primary staff indicated that if Florida Water would delete three provisions from its offer, primary staff would recommend that the Commission accept this offer of settlement. At the August 23, 1999 Special Agenda Conference, Florida Water submitted a modified offer of settlement, whereby it agreed to delete the three provisions which the primary staff did not support. Upon consideration of this modified offer, and upon hearing from all parties attending the Special Agenda, the Commission voted to accept Florida Water's modified offer. The order memorializing this vote will be issued as final agency action and should be issued within twenty days. We will send a copy of the order to you when it is issued, as well as a copy of the transcript as soon as it becomes available.

Your questions, and the responses thereto are set out below:

- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG \_\_\_\_\_
- MAS \_\_\_\_\_
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- SEC \_\_\_\_\_
- WAW \_\_\_\_\_
- OTH \_\_\_\_\_

1) Since Florida Water Services' 1995 rate case, a number of counties decided to reassume regulation of private water and wastewater systems. How does the regulatory asset affect those counties in the future?

The utility proposed and the Commission approved a methodology whereby the regulatory asset would be allocated to all systems that were part of Docket No. 950495-WS. The regulator

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asset would be allocated by the number of ERCs that were approved in Order No. PSC-96-1320-FOF-WS, issued October 30, 1996. The allocated portion would be booked to each system's utility plant-in-service. The recovery of the regulatory asset would be recovered from the individual customers of each system. Therefore, the applicable portion of the regulatory asset would remain with those systems no longer regulated by the Commission.

**2) How does the decision of certain counties to reclaim jurisdiction over private water and wastewater systems affect the amount of the regulatory asset charged to customers in those counties where regulation of Florida Water Services Corporation remains within the jurisdiction of the Public Service Commission?**

As stated in our response to question 1 above, each individual system in this rate case will have a portion of the regulatory asset allocated to it based on the number of ERCs for that system. The applicable portion of the regulatory asset would remain with each individual system. Therefore, the decision of certain counties to reclaim jurisdiction will not affect the amount of the regulatory asset charged to customers in those counties where regulation of Florida Water Services Corporation remains within the jurisdiction of the Commission.

**3) Since your staff has stated its belief that it would prevail at a hearing on all "category 2" issues, how do you justify giving Florida Water Services 100% of all amounts at issue for the past three years, and 50% of all amounts at issue ongoing basis?**

When the Commission first decided to reopen the record and conduct further hearings, staff originally believed that a witness could be proffered to present testimony to support the Commission's past decisions on the "category 2" issues. However, staff notes that there have now been three opinions of the Florida First District Court of Appeal (First District) regarding these issues. In all three opinions, the First District has overturned the decisions of the Commission. With the most recent opinion, in Palm Coast Utility Corp. v. FPSC, Case No. 97-1720 (Fla. 1st DCA May 10, 1999), staff's confidence was diminished that a favorable decision by the First District, in the event of further appeal, would be obtained. In the Palm Coast case, staff had sponsored a witness to specifically support the Commission's method on these two issues, and yet the Commission was still overturned.

In further weighing the offer of settlement (as modified), the Commission considered the possible outcomes of a hearing. Staff advised the Commission that if the Commission reconsidered its previous decision to reopen the record, the utility would be entitled to collect an additional \$1.9 million per year in its rates. The utility has offered to accept approximately half of this amount. Further, the utility has stated that it has already expended \$400,000 in rate case expense, with an estimated additional expenditure of \$700,000, for a total rate case expense of \$1.1 million through the hearing and appeal process. Therefore, this additional rate case expense of \$700,000 would not be incurred and would not be included in future rates.

As to the collection of the total amount through the regulatory asset, if the Commission had initially made a decision not to reopen the record, the utility would have been entitled to immediately collect the full amount of a surcharge only from those customers who were customers during the time the erroneous rates were in effect. This could have amounted to thousands of dollars being collected from a single customer. However, the Commission approved the utility's proposal not to begin collecting the amount until the next rate case, which the utility has agreed will not be filed any earlier than June 28, 2002 (unless an overearnings investigation is initiated). Also, this amount will be collected over thirty years, thus minimizing the impact on customers. This is addressed in more detail, later in my letter. Moreover, interest will no longer accrue on the regulatory amount.

The utility has stated that if these issues had proceeded to hearing and subsequent appeals, the surcharge amount was estimated to continue to grow to \$13.5 million. Booking the regulatory asset stops the growth of this amount. Further, the utility did not seek, nor did the Commission approve, recovery of a rate of return on the asset. My staff has estimated this return amount to be approximately \$2.59 million over the next three years.

**4) What is the total amount customers will be charged in the future on account of the regulatory asset, including amortization of the asset and profit on the unamortized portion of the asset? What is this amount on a per-customer basis? What is the total aggregate amount per customer as a result of this potential ruling?**

Based upon a preliminary analysis by staff, utility customers would be charged approximately \$0.88 a year, or \$.07 per month for the first year of amortization. However, this is based upon the number of ERCs for the year 1996. As the utility continues to grow, this amount should be less. This is due to the fact that there will be more customers over which to spread this regulatory asset. Please be advised that this is only an estimate. The actual recovery will be based upon numerous factors to be decided in the utility's next rate case (not to be filed before June 28, 2002). Among these factors are overall rate of return, growth in customers, earnings level, etc.

**5) The regulatory asset replaces a surcharge that would otherwise be charged to past customers of the company. If new customers cannot be required to pay a surcharge, can new customers be required to pay higher rates caused by a regulatory asset?**

The Commission expressed concern regarding the most equitable way of resolving this matter. Among those concerns were: the amount of potential surcharges; the ability to collect the surcharges; the number of years that have transpired since the Commission's decision; the number of customers who have left the utility; and the ability to collect from customers who have left.

Also, the Commission considered the benefits of the utility's modified offer to both the current customers and future customers. These benefits include but are not limited to: the utility's agreement to accept, in its going forward rates, only approximately one-half of the "category 2" increase to which it would have been entitled if it prevailed on those issues; the utility's agreement

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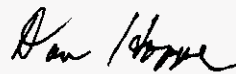
to not file a rate case for approximately three years; the utility's agreement to forego rate case expense incurred since the remand for approximately three years; the avoidance of an estimated additional \$700,000 in additional rate case expense if further proceedings were held; and the de minimis impact to rates by spreading the collection of the regulatory asset over thirty years.

**6) How does the regulatory asset affect customers who received service from Florida Water Services Corporation while improper rates were in effect, but who are currently being serviced by another company?**

Since these former customers are no longer customers of Florida Water, there will be no effect on them.

In conclusion, I hope the above-noted responses satisfactorily address any concerns you may have with the Commission's acceptance of Florida Water's modified offer of settlement. If you have any further questions or concerns, or if I can be of any further assistance, please feel free to call me at (850) 413-6802.

Sincerely,

  
Dan M. Hoppe  
Division Director

DMH/RRJ/lw

cc: Division of Water and Wastewater (Willis)  
Mary Bane, Deputy Executive Director/Technical  
Division of Legal Services (Davis, Gervasi)  
Division of Records and Reporting (Bayo)