

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into the ) DOCKET NO. 930880-WS  
Appropriate Rate Structure for ) ORDER NO. PSC-93-1795-PCO-WS  
SOUTHERN STATES UTILITIES, INC. ) ISSUED: December 16, 1993  
for all Regulated Systems in )  
Bradford, Brevard, Citrus, Clay, )  
Collier, Duval, Hernando, )  
Highlands, Lake, Lee/Charlotte, )  
Marion, Martin, Nassau, Orange, )  
Pasco, Putnam, Seminole, St. )  
Johns, St. Lucie, Volusia, and )  
Washington Counties. )

---

ORDER SETTING ISSUES AND  
REVISING DATES FOR FILING TESTIMONY AND EXHIBITS

Order No. PSC-93-1582-PCO-WS, issued October 29, 1993, directed the parties to file a list of issues to be considered in this Commission-initiated investigation. The parties have now filed their lists of issues. Having reviewed all issues filed, having rejected issues deemed to be irrelevant or inappropriate, and having incorporated the concepts of other issues, the following four issues have been found to be the appropriate issues for hearing. Prefiled testimony and prehearing statements shall address the issues set forth in this Order. An explanation for the decision as to the other issues raised by the parties is discussed below the list of issues.

LEGAL ISSUE

1. DOES THE COMMISSION HAVE THE AUTHORITY TO MODIFY RATES TO AFFECT CONSERVATION?

POLICY ISSUES

2. WHAT IS THE APPROPRIATE RATE STRUCTURE FOR SOUTHERN STATES UTILITIES, INC.? IN REACHING A DECISION ON THIS ISSUE SPECIFIC CONSIDERATION WILL BE GIVEN TO THE FOLLOWING FACTORS:
  - a. RELATIVE COST OF PROVIDING SERVICE, SUCH AS TREATMENT TYPE;
  - b. CIAC CONTRIBUTION LEVELS;

DOCUMENT CONTROL UNIT

13370 DEC 16 1993

FLORIDA PUBLIC SERVICE COMMISSION

- c. THE NEED FOR CONSERVATION RATES AND THE EXTENT TO WHICH THOSE RATES WILL ENCOURAGE CONSERVATION;
  - d. GEOGRAPHIC CONSIDERATIONS, SUCH AS LOCATION OF FACILITIES, PLANT, AND CUSTOMERS;
  - e. LONG-TERM BENEFITS OF UNIFORM RATES AS COMPARED TO OTHER RATE STRUCTURES;
  - f. COST SAVINGS TO THE UTILITY IN BILLING, RATE CASE EXPENSE AND OTHER EXPENSES;
  - g. THE EFFECT OF RATE STRUCTURE ON CUSTOMERS' AND OFFICE OF PUBLIC COUNSEL'S PARTICIPATION IN RATE PROCEEDINGS;
  - h. THE RELATIONSHIP BETWEEN RATES AND ACQUISITIONS;
  - i. THE EFFECT OF UNIFORM RATE STRUCTURE ON CUSTOMERS AS COMPARED TO OTHER RATE STRUCTURES, INCLUDING BUT NOT LIMITED TO STAND-ALONE AND TIERED RATE STRUCTURES.
3. SHOULD A SEPARATE BULK WASTEWATER RATE STRUCTURE BE APPROVED FOR HERNANDO COUNTY AND/OR OTHER BULK WASTEWATER CUSTOMERS? IF SO, HOW SHOULD SUCH A RATE BE CALCULATED?
4. WHAT ARE THE APPROPRIATE RATES ON A GOING-FORWARD BASIS?

ISSUES FILED BY CITRUS AND HERNANDO COUNTIES

Legal Issues

Citrus and Hernando Counties (the Counties) raise 13 issues which the Counties identify as legal issues. Issue 1 raises the question of the Commission's authority to set uniform rates if the rates allow a return on plant which is not used and useful in providing service to all customers paying rates on that plant. This is an issue which was raised and disposed of in Docket No. 920199-WS and Orders Nos. PSC-93-0423-FOF-WS and PSC-93-1598-FOF-WS, issued March 22, 1993, and November 2, 1993, respectively, in which the Commission determined and reaffirmed its legal authority

to set rates using a statewide, uniform rate structure. Based on the doctrine of administrative finality, this issue is not appropriately raised in this docket.

Similarly, Issue 2 raises the question of the Commission's authority to set uniform rates if the rates allow recovery of expenses not necessary in providing utility service to all customers being charged the rates. This is also an issue which was raised and disposed of in Docket No. 920199-WS and Orders Nos. PSC-93-0423-FOF-WS and PSC-93-1598-FOF-WS, issued March 22, 1993, and November 2, 1993, respectively, in which the Commission determined and reaffirmed its legal authority to set rates using a statewide, uniform rate structure. Based on the doctrine of administrative finality, this issue is not appropriately raised in this docket.

Issue 3 has been set as Issue 1 in this Order.

To the extent that contributions-in-aid-of-construction (CIAC) levels of individual systems will be considered in the issues set forth herein, Issue 4 will be addressed in Issue 2.b. set in this Order.

Issue 5 raises the question whether it is constitutionally impermissible to set rates that do not fully reflect CIAC paid by customers. Again this is an issue which was raised and disposed of in Docket No. 920199-WS and Orders Nos. PSC-93-0423-FOF-WS and PSC-93-1598-FOF-WS, issued March 22, 1993, and November 2, 1993, respectively, in which the Commission determined and reaffirmed its legal authority to set rates using a statewide, uniform rate structure. Based on the doctrine of administrative finality, this issue is not appropriately raised in this docket.

Similarly, Issue 6 questions whether it is legally permissible to approve rates for certain systems which are not sufficient to cover the operating expenses of the customers served by those systems. This is also an issue more appropriately addressed in the appeal of the Final Order in Docket No. 920199-WS.

Issue 7 questions whether the Commission has authority to enter into Memoranda of Understanding with other state agencies for the purpose of affecting water consumption rates in Florida. This issue is irrelevant to this proceeding because it has no bearing on the determination of whether uniform rates for Southern States Utilities, Inc. (SSU) are appropriate and in the public interest.

Issue 8 questions the legality of requiring Hernando County to subsidize systems other than the one to which it is connected. Once again, this issue is not appropriately raised in this docket because the issue of the Commission's authority to set uniform rates was raised and disposed of in Docket No. 920199-WS and Orders Nos. PSC-93-0423-FOF-WS and PSC-93-1598-FOF-WS, issued March 22, 1993, and November 2, 1993, respectively, in which the Commission determined and reaffirmed its legal authority to set rates using a statewide, uniform rate structure.

Issue 9 raises the question of whether the previous approval of uniform rates for other utilities makes it legal to set uniform rates. Again, the legality of setting uniform rates and the basis for determining that the Commission has the authority to set such rates was raised and disposed of in Docket No. 920199-WS and Orders Nos. PSC-93-0423-FOF-WS and PSC-93-1598-FOF-WS, issued March 22, 1993, and November 2, 1993, respectively, in which the Commission determined and reaffirmed its legal authority to set rates using a statewide, uniform rate structure.

Issue 10 asks whether the Florida Aquifer qualifies as a justification for setting uniform rates. This issue is not relevant to this proceeding because it does not address the policy issue of this docket. It seems to address the legal issue of the Commission's authority to set statewide, uniform rates for systems which are not physically interconnected.

Issue 11 asks whether other agencies have primary authority over consumption of water and discharge of wastewater. The purpose of this docket is to determine the appropriate rate structure for SSU. Determining the agencies with primary jurisdiction over consumption of water and discharge of wastewater is not a relevant issue.

Issue 12 raises the issue of the Commission's authority to encourage SSU's acquisition of systems in need of rehabilitation and whether the Commission should consider that acquisitions by governmental entities would be more cost-effective where existing customers will have to subsidize the operations of the newly-acquired systems. The Commission's policy on acquisitions of troubled systems has no relevance to this proceeding. However, the possible affect of acquisitions on customers' rates is one of the factors to be considered in this proceeding (See Issue 2.h.).

Issue 13 raises two questions. The first question raised is whether it is legal for "impact fees" in the form of connection fees charged in one county to be "spent" elsewhere by the adoption of uniform rates that ignore the connection fees. This issue is similar to the Counties' Issue 5 and is rejected for the same reason. The second part of Issue 13 questions whether the uniform rates violate local comprehensive plans. This issue is irrelevant.

#### General Issues

The Counties raise another 13 general issues. The Counties' Issue 1 asks what criteria should be used in this proceeding to determine whether uniform rates are appropriate for SSU. The Counties' Issue is addressed by the identification of the issues herein, particularly Issue 2 which identifies factors to be considered in determining whether uniform rates are appropriate for SSU.

The Counties' Issue 2 questions whether comparison of electric and telephone utilities is a legitimate basis for approving uniform rates. The issue has ten sub-parts all related to how such a comparison should be made. Most of the sub-parts are more in the nature of discovery or argument. For example, one sub-part is stated as follows: Is it not true that all Florida telecommunications companies have different residential and business rates despite the cost to serve each classification being similar? To the extent that the Counties' Issue 2 raises the legal issue of whether the Commission has the authority to set uniform rates based on its authority to set such rates in other industries, the issue was raised and disposed of in Docket No. 920199-WS and Orders Nos. PSC-93-0423-FOF-WS and PSC-93-1598-FOF-WS, issued March 22, 1993, and November 2, 1993, respectively, in which the Commission determined and reaffirmed its legal authority to set rates using a statewide, uniform rate structure. Based on the doctrine of administrative finality, this issue is not appropriately raised in this docket. To the extent that the issue raises criteria to be considered, such as geographic location or interconnection, the Counties' Issue is addressed in Issue 2 set in this Order.

Issue 3 asks for the names of other utilities for which the Commission has set uniform rates and other factual questions. This issue is appropriate for discovery and is not a question of law or controversy.

Similarly, Issue 4 asks whether all of SSU's systems are connected to the same aquifer. This is also a question appropriate for discovery.

Issue 5 asks how uniform rates will affect conservation. To the extent that Issue 2 set in this Order addresses conservation, this issue is addressed. The sub-parts to this question are both argumentative (Will not subsidization send the wrong signal and promote consumption?) and call for a decision of the Commission that is far beyond the scope of this proceeding (What other actions does the Commission intend to take to control water consumption or encourage conservation?).

The Counties' Issue 6 will be addressed within Issue 2.h. set in this Order.

Issue 7, with six sub-parts, is an issue more appropriate for discovery. For example, the first question raised by the issue is what accounts for the high cost of serving those systems receiving the greatest subsidies under uniform rates. Further, it also raises questions concerning the criteria used for approving acquisitions, such as did the Commission consider whether any recent acquisition by SSU would have been more cost-effective had the system been purchased by a governmental entity. Issue 7 is rejected as being both discovery oriented and irrelevant. To the extent that Issue 7 raises the question of how SSU customers will be affected by future acquisitions, that issue is addressed in Issue 2.h. set in this Order.

Issue 8 is a continuation of acquisition related questions which are more appropriate for discovery. For example, one of the sub-parts of Issue 8 asks what plans exist for the acquisition of systems by SSU. Issue 8 is rejected because it does not raise an issue of controversy.

Issue 9 asks what plans SSU has for improvements to the 127 systems included in the recent rate case and how these improvements will affect the uniform rates. This Issue is also one more appropriate for discovery and is rejected for that reason.

Issue 10 asks questions relating to the Commission's workload as a result of uniform rates and whether any savings will be sufficient to reduce the current regulatory assessment fee. The Commission's workload and the regulatory assessment fees are not relevant to this proceeding. Therefore, Issue 10 was rejected.

Similarly, Issue 11 asks whether the filing of 127 systems at one time will overwhelm the ratemaking process and whether there will be time to conduct field audits under the statutory time constraints. Again, the Commission's workload is not at issue in this proceeding and the Issue has been rejected as irrelevant.

Issue 12 what rate case savings will result from uniform rates and similar questions. These questions raised in Issue 12 can be answered in discovery and do not raise any issue of controversy, although reduction in rate case expense is a factor included in Issue 2.f. set in the Order. Therefore, Issue 12 is rejected. Issue 13 asks what are the appropriate factors to be utilized for calculating the used and useful calculations for each system. The calculation of used and useful is not relevant to this proceeding because rates are not at issue.

#### Bulk Wastewater Rate Issues

The Counties also raise 4 issues related to bulk wastewater service in Hernando County. Issue 1 asks whether there should be a separate bulk wastewater rate for Hernando County. This issue was set as an issue at the time this investigation was initiated and is identified as Issue 3 of the Issues set in this Order. Issues 2 and 3 raised by the Counties are directed at how the bulk wastewater rate should be calculated. These two issues are subsumed in Issue 3 set in this Order which addresses the question of how the bulk wastewater rate is to be calculated, should one be established. Issue 4 raised by the Counties questions what SSU's fixed and variable costs are for providing bulk wastewater service to Hernando County. This is a discovery-type question and has been rejected for that reason.

#### ISSUES FILED BY COVA

Cypress and Oak Villages Association (COVA) filed 18 issues. Issues 1-6 are statements of position. For example, Issue 1 states as follows: Statewide uniform rates effectively neutralize the Office of Public Counsel as an advocate of the Citizens of the State of Florida (i.e. the ratepayers), by creating a conflict of interest. Because Issues 1-6 are worded in the form of positions or argument rather than in the form of issues, they have not been included as issues herein.

Issue 7 is worded as follows: How does the uniform rate concept square with staff recommendations that the minimum criteria in considering consolidation for rate-making purposes should be: the source and type of treatment, age and condition of the system, level of CIAC, size and density of the system, service availability charges, operating expense characteristics and rate base per ERC? This issue is rejected because staff recommendations do not have to "square" with Commission decisions. To the extent that this issue deals specifically with any recommendations in Docket No. 920199-WS, it should be raised on appeal of the Commission's decision in that docket. To the extent that COVA wishes to explore these factors in this proceeding, each of them is included in one of the factors identified in Issue 2 set herein.

Issue 8 questions whether uniform rates for water and sewer can be justified by comparison to electric power utilities. Issue 9 questions whether uniform rates can be justified by the argument that 127 SSU utilities are interconnected by the Floridian aquifer. Issues 8 and 9 are the same as Issues 9 and 10 of the Counties' legal issues and are rejected for the same reasons.

Issue 10 questions whether water conservation is the primary responsibility of this Commission as opposed to the water management districts. By investigating what the appropriate rate structure is for SSU, this Commission is not asserting primary jurisdiction over water conservation in this state. Therefore, that portion of Issue 10 is rejected as irrelevant. To the extent that Issue 10 addresses conservation through rate structure, it will be addressed in this proceeding in Issue 2.c. set in this Order.

Issue 11 raises the question of whether customers and OPC will be able to adequately participate in future proceedings where uniform rates have been established. This issue is addressed as part of Issue 2.g. set by this Order.

Issue 12 is a discovery-type question similar to the Counties' general Issue 9 and is rejected for the same reason.

Issue 13 is as follows: Will uniform rates reduce the work load of the PSC staff? If so, how will the customers interests be protected? Will the 4.5% Revenue Assessment Fee be reduced? The Commission's workload and the amount of the regulatory assessment fees are not appropriate issues for this proceeding, and are not relevant to the issue of the appropriate rate structure for SSU.



Issue 14 questions Commission staff's ability to process the filing of a rate case for 127 systems under the uniform rate structure. This issue is not relevant because the Commission must process rate cases for however many utilities or systems file for rate relief. In Docket No. 920199-WS, SSU filed for rate relief for 127 systems at one time and individual field audits were conducted just as they will be in any future filing regardless of the rate structure or the number of systems involved.

Issue 15 has several sub-parts. First, it raises the question of whether it is desirable that uniform rates be used to encourage SSU to purchase small troubled utilities. This issue has been rejected as irrelevant because rate structure is not a mechanism by which the Commission encourages or discourages acquisitions. However, to the extent that the effect of acquisitions is a factor which COVA believes should be explored, the relationship between rates and acquisitions is identified in Issue 2.h. set in this Order. The second part of Issue 15 raises the question of whether it is desirable that rate increases for the purpose of purchasing small troubled systems occur on or near an annual basis. This is also irrelevant because there is no basis to conclude that rate increases will occur on an annual basis. The utility may choose the frequency of its requests for rate increases which may or not be related to acquisitions. The third part of the issue questions the legality of "assessing a subsidy" to the ratepayers of some utilities in order to allow others to pay less than cost for their utility services. This is a legal issue which was raised and rejected in Docket No. 920199-WS and Orders Nos. PSC-93-0423-FOF-WS and PSC-93-1598-FOF-WS, issued March 22, 1993, and November 2, 1993, respectively, in which the Commission determined and reaffirmed its legal authority to set rates using a statewide, uniform rate structure. Based on the doctrine of administrative finality, this issue is not appropriately raised in this docket.

Issue 16 raises the question of whether uniform rates take precedence over the Citrus County Comprehensive Plan. This issue is similar to the third part of the Counties' legal Issue 13 and is rejected for the same reason.

Issue 17 has two parts. The first part, whether uniform rates will reduce rate case expense, can be addressed in Issue 2 of this Order as a possible benefit of statewide rates. The second part of Issue 17, whether rate case expense will be apportioned fairly, is not relevant to this proceeding because whatever rate structure is

ORDER NO. PSC-93-1795-PCO-WS  
DOCKET NO. 930880-WS  
PAGE 10

utilized will necessarily determine the allocation of all common costs including rate case expense.

Issue 18 questions whether, under uniform rates, the procedures, rules and regulations will cover more fully the engineering and accounting aspects of ratemaking. The adequacy of the Commission's procedures, rules and regulations are not the focus of this proceeding. Therefore, this issue has been rejected as irrelevant. However, the Commission has a statutory duty to set rates that are just, reasonable, compensatory and not unfairly discriminatory which duty cannot be fulfilled without a complete examination of the engineering and accounting information filed by any utility.

ISSUES FILED BY SOUTHERN STATES UTILITIES, INC.

The issues filed by SSU have been substantially included in the issues set in this Order.

DISKETTE FILINGS

The parties are reminded that all filings in this proceeding are governed by the provisions of Rule 25-22.028, Florida Administrative Code, requiring parties to include a copy of documents on diskette where appropriate.

DATES FOR FILING TESTIMONY

By Order No. PSC-93-1516-PCO-WS, issued October 14, 1993, the parties' testimony is due on December 17, 1993. Through an inadvertent error the above-referenced Order was not sent to the parties of record until December 8, 1993. Further, this Order setting issues is being issued less than a week before the December 17, 1993, deadline for filing testimony. In addition, COVA and the Counties have filed a request for an extension of time within which to file testimony. SSU does not object to an extension of time to file direct testimony. Based on the foregoing, it is appropriate to extend the time within which to file direct testimony and exhibits. COVA's and the Counties' motion are granted to the extent set forth below. Order No. PSC-93-1516-PCO-WS is reaffirmed in all other respects. Accordingly, the following shall be the controlling dates for filing testimony in this case.

- 1) All parties' (utility and intervenors) direct testimony and exhibits January 11, 1994
- 2) Staff's direct testimony and exhibits, if any February 2, 1994
- 3) Rebuttal testimony and exhibits February 18, 1994

In the event rehearing of this Order Setting Issues and Revising Schedule is requested, the dates for filing testimony will remain the same. For any additional issues which may arise in the event there is rehearing, additional time to file supplemental testimony on those issues will be considered upon request by the parties.

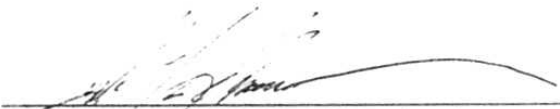
Based on the foregoing, it is therefore

ORDERED by Julia L. Johnson, as Prehearing Officer, that the issues identified in the body of this Order shall be the issues of the case, unless modified by the Commission. It is further

Ordered that the Cypress and Oak Villages Association, Inc.'s Motion to correct or extend Sue Date of Intervening Testimony and Citrus and Hernando Counties' Motion Requesting Additional Time To File Prefiled Testimony are granted to the extent set forth in the body of this Order. It is further

ORDERED that the controlling dates for filing testimony and exhibits set forth in Order No. PSC-93-1516-PCO-WS are revised as set forth in the body of this Order. Order No. PSC-93-1516-PCO-WS is reaffirmed in all other respects.

By ORDER of Commissioner Julia L. Johnson, as Prehearing Officer, this 16th day of December, 1993.

  
\_\_\_\_\_  
JULIA L. JOHNSON, Commissioner and  
Prehearing Officer

( S E A L )

CB

ORDER NO. PSC-93-1795-PCO-WS  
DOCKET NO. 930880-WS  
PAGE 12

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.