

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into) DOCKET NO. 930945-WS
Florida Public Service) ORDER NO. PSC-94-1445-PCO-WS
Commission Jurisdiction over) ISSUED: November 23, 1994
SOUTHERN STATES UTILITIES, INC.)
in Florida)
_____)

ORDER GRANTING IN PART AND DENYING IN PART SOUTHERN STATES
UTILITIES, INC.'S MOTION FOR PROTECTIVE ORDER

On November 1 1994, Southern States Utilities, Inc. (SSU or the Utility) filed with this Commission a Motion for Protective Order, providing, first, that SSU and its witnesses not be required to respond to discovery, including deposition questions, propounded by Hernando County until such time as Hernando County files a Petition for Leave to Intervene in this proceeding and, second, that SSU not be required to respond to discovery including deposition questions, concerning SSU's statewide uniform rates, uniform rates in general, or other rate or rate structure issues.

On November 11, 1994, the Commission issued Order No. PSC-94-1363-PCO-WS, in this docket, granting SSU's Motion to Strike Testimony of Hernando County Witness Buddy L. Hansen and Conferring Party Status on Hernando County. On November 21, 1994, the Commission issued Amendatory Order No. PSC-1363A-PCO-WS, which provided for the same disposition of the Motion as in Order No. PSC-94-1363-PCO-WS, while substituting certain final draft language for preliminary draft language inadvertently included.

On October 27, 1994, Sarasota County, a party in this proceeding, filed a Notice of Taking Depositions, seeking the depositions of three SSU witnesses, Forrest L. Ludsen, Scott W. Vierima, and Dale G. Lock. SSU alleges that Hernando County has conveyed to SSU its intention to participate in these depositions.

SSU asserts, in support of its Motion, that Hernando County, because it does not hold the status of party in this proceeding, may not participate in these depositions. The Utility further asserts that, even were Hernando County to achieve party status in this proceeding, the County may not be permitted to pose questions concerning statewide uniform rates, because, based on Rule 1.280 (b) (1), Florida Rules of Procedure, such questions are not reasonably calculated to lead to admissible evidence.

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SSU's Motion for Protective Order is granted as it relates to Hernando County's capacity to pose questions to SSU witnesses concerning statewide uniform rates. In Order No. PSC-94-1363A-PCO-WS, this Commission ordered stricken an extensive part of the direct testimony of Hernando County witness, Buddy L. Hansen, that consisted of a discussion of statewide uniform rates, finding such testimony to be clearly irrelevant to the determination of the Commission's jurisdiction in this proceeding. Consistent with Order No. PSC-94-1363A-PCO-WS, Hernando County may not address the subject matter of statewide uniform rates, should it seek the depositions of the SSU witnesses.

SSU's Motion for Protective Order is denied as it relates to Hernando County's capacity to seek the depositions of the SSU witnesses. Although it is true that at the time that SSU filed the instant Motion, Hernando County had not filed a Petition for Leave to Intervene in this proceeding, pursuant to Rule 25-22.039, Florida Administrative Code, and did not hold the status of party in this proceeding, by Order No. PSC-94-1363A-PCO-WS, party status was conferred on Hernando County. SSU's instant Motion is, in this respect denied as moot. Therefore, Hernando County, as a party in this proceeding, may seek the depositions of the SSU witnesses.

Based on the foregoing, it is, therefore,

ORDERED by Commissioner Julia L. Johnson, as Prehearing Officer, that Southern States Utilities, Inc.'s Motion for Protective Order is hereby granted in part and denied in part as set forth above.

By ORDER of the Florida Public Service Commission, this 23rd day of November, 1994.



JULIA L. JOHNSON, PREHEARING OFFICER
Florida Public Service Commission

(S E A L)

CJP

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.